

THE COURTS

Title 249—PHILADELPHIA RULES

PHILADELPHIA COUNTY

Adoption, Amendment and Rescission of Various Philadelphia Criminal Rules; President Judge General Court Regulation No. 2014-3

Order

And Now, this 4th day of June, 2014, the Board of Judges of Philadelphia County having voted at the Board of Judges' meeting held on May 15, 2014 to adopt, amend or rescind various Philadelphia Criminal Rules as specifically set forth in the following Table,

It Is Hereby Ordered that any reference to the "Clerk of Courts" (also formerly known as the "Clerk of Quarter Sessions") in any Philadelphia Criminal Rule shall be changed to the "Office of Judicial Records" and that the Philadelphia Criminal Rules identified in the following Table are adopted, amended or rescinded, as follows.

As required by Pa.R.Crim.P. No. 105(D), the proposed Philadelphia Criminal Rules have been submitted to the Supreme Court's Criminal Procedural Rules Committee for review and written notification has been received from the Committee certifying that the proposed adopted and amended rules are not inconsistent with any general rule of the Supreme Court. The original Order and Philadelphia Criminal Rules shall be filed with the Office of Judicial Records in a docket maintained orders issued by the President Judge of the Philadelphia Court of Common Pleas, and, as required by Pa.R.Crim.P. No. 105(E), two certified copies of this Order and rules as well as a copy on a computer diskette shall be distributed to the Legislative Reference Bureau for publication in the *Pennsylvania Bulletin*. The rule changes will become effective thirty (30) days after publication in the *Pennsylvania Bulletin*. As required by Pa.R.Crim.P. No. 105(F) one certified copy of this General Court Regulation and amended local rules shall be filed with the Administrative Office of Pennsylvania Courts and the local rule will also be published on the Unified Judicial System's web site at <http://ujportal.pacourts.us/localrules/ruleselection.aspx> and posted on the First Judicial District's website at <http://courts.phila.gov>. Copies of this General Court Regulation and amended local rules 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

HONORABLE SHEILA WOODS-SKIPPER,
President Judge
Court of Common Pleas

FIRST JUDICIAL DISTRICT OF PENNSYLVANIA COURT OF COMMON PLEAS TRIAL DIVISION—CRIMINAL LOCAL RULES

(Additions are bold; deleted language is bold and bracketed.)

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

(*Editor's Note:* Rules 100, 102—105, 102 and 115 are new and printed in regular type to enhance readability.)

Rule *100. Scope of Rules.

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

Rule *102. Citing the Local Criminal Procedure Rules.

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

PART A. BUSINESS OF THE COURTS.

Rule *103. Definitions.

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

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

Rule *104. Design of Forms.

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

Rule *105. Local Rules.

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

Rule *107. Contents of Subpoena.

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

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

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

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

Rule *115. Recording and Transcribing Court Proceedings.

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

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

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

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

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

[Rule 400. Emergency Criminal Court Operation Plan.]**Rescinded****PART B. COUNSEL****[Rule *122-1. Homicide Appointment System.]**

Suspended indefinitely and for all purposes on April 20, 2012. Rescinded effective immediately.

[Rule 406] Rule *122. Standards for Appointment of Counsel.**(A) Lists of Qualified Attorneys**

The Appointment Clerk [**in the Office of the Secretary of the Board of Judges**] will maintain a list of attorneys qualified for appointment in each of the following [**five**] categories of cases:

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

[(4) Capital PCHA

- (5) **Homicide**] 4. Non-capital [**PCHA**] PCRA

[The Appointment Clerk in the Office of Criminal Listings, Court Administration, will maintain a list of attorneys qualified for appointment in each of the following four categories of cases:

- (6)] 5. Felony
- [(7)] 6. Misdemeanor
- [(8)] 7. Non-homicide appellate
- [(9)] 8. Non-homicide [**PCHA**] PCRA

[The Office of Legal Liaison, Family Court Division, will maintain a list of attorneys qualified for appointment in each of the following two categories of cases:

- (1) **Major felony juvenile**
- (2) **Non-major felony juvenile]**
- (B) *Selection of Attorneys*

(1) Each attorney who desires appointment in each of the above categories of cases must fill out a questionnaire which will be submitted to a Screening Committee of the Philadelphia Bar Association. The Committee shall consist of seven members, each appointed for a staggered fixed term. All members of the Screening Committee will be appointed by the Board of Judges of Philadelphia County. Neither the Chief Defender, nor any attorney from the Defender's Office, nor any attorney from the District Attorney's Office shall be eligible for appointment to the Screening Committee. In making such appointments, the Board of Judges shall consider the recommendation of the Criminal Justice Section of the Philadelphia Bar Association, which shall submit to the Board of Judges a list of not less than fifteen names. Each member of the Screening Committee must be familiar with the practice of criminal law in Philadelphia.

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

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

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

[All members of the Screening Committee will be appointed by the Board of Judges of Philadelphia County. Neither the Chief Defender, nor any attorney from the Defender's Office, nor any attorney from the District Attorney's Office shall be eligible for appointment to the Screening Committee.]

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

[(C) *Rotation of Appointments*

Judges authorized to make appointments shall endeavor to see that appointments are distributed on a fair and equitable basis among attorneys who meet the qualifications in each category.

(D) *Effective Date*

The standards adopted herein will be effective as to appointments made on and after February 1, 1989.]

[**Rule 406-1**] **Rule *122-1.** Standards for Appointment in Homicide Cases.

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

[**Rule 406-2. Appeals in Death Penalty Cases.**]

Rescinded March 10, 2011, effective January 2, 2012.

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

Reserved

[**Rule 406-3 & 8**] **Rule *122-3.** Standards for Appointment of Appellate Counsel in Cases Where the Death Penalty Has Not Been Imposed.

(A) *Qualifications for Counsel*

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

(1) Has been admitted to the Bar of the Pennsylvania Supreme Court, or admitted to practice pro hac vice;

(2) Has submitted a writing sample to the Screening Committee;

(3) Has filed briefs within the past two years, as appellate counsel in either the Pennsylvania Supreme or Superior Court in no fewer than three criminal cases, or has completed at least one Continuing Legal Education Program on Pennsylvania appellate practice within the past year, or has otherwise demonstrated to the Screening Committee appellate experience and a knowledge of Pennsylvania appellate practice;

(4) Is readily available to accept appointments.

[**Rule 406-4. Post-Conviction Petitions by Prisoners Under Sentence of Death.**]

Rescinded March 10, 2011, effective January 2, 2012.

[**Rule 406-5 & 9**] **Rule *122-4.** Standards for Appointment of [**PCHA**] **PCRA** Counsel in Cases Where the Death Penalty Has Not Been Imposed or of Counsel in Other Post-Conviction Evidentiary Hearings.

(A) *Qualifications for Counsel*

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

(1) Has been admitted to the Bar of the Supreme Court of Pennsylvania or has been admitted to practice pro hac vice;

(2) Has experience, within the past two years, as [**PCHA**] **PCRA** counsel in no fewer than two cases in which a [**PCHA**] **PCRA** hearing has been held, or has

completed one Continuing Legal Education program on Pennsylvania post-conviction practice within the past year;

(3) Has participated in the preparation and litigation of three adversary hearings where factual issues were contested. (This may include the two [**PCHA**] **PCRA** hearings required in paragraph 2.);

(4) Is readily available to accept appointments.

[**Rule 406-6**] **Rule *122-5.** Standards for Appointment in Felony Cases.

(A) *Qualifications for Counsel*

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

(1) Has been admitted to the bar of the Pennsylvania Supreme Court, or admitted to practice pro hac vice;

(2) Is an active trial and/or appellate practitioner with at least two years litigation experience (trial and/or appellate) in the field of criminal law in this or any other jurisdiction;

(3) Has prior experience as counsel in no fewer than five criminal trials which were tried to completion in this or any other jurisdiction;

(4) Has been counsel in at least two felony trials within the past two year period, or has completed at least one Continuing Legal Education program in the field of criminal law within the past year;

(5) Is familiar with the practice and procedure of the Pennsylvania Supreme Court, and the Philadelphia Court of Common Pleas, and is reasonably available to accept appointments;

[(7)] (6) Has prior experience as counsel in no fewer than five criminal trials which were tried to completion in this or any other jurisdiction. "Tried to completion" shall include trials in which the jury is discharged at the conclusion of the case without reaching a verdict. No more than two of the required five trials shall consist of major felony juvenile cases; **and**

[(6)] (7) All attorneys certified in this category automatically shall be certified to handle non-homicide appellate and non-homicide [**PCHA**] **PCRA** matters [;].

Editor's note: The Board of Judges voted on February 17, 2005 to amend the preceding rule, pending final approval in May of 2005; amended July 14, 2005.

[**Rule 406-7**] **Rule *122-6.** Standards for Appointment of Counsel in Misdemeanor Cases.

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

(1) been admitted to the Bar of the Pennsylvania Supreme Court or admitted to practice pro hac vice;

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

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

[**Rule 406-10. Standards for Appointment in Major Felony Juvenile Cases.**

(A) *Qualifications for Counsel*

Major felony juvenile cases will generally include representation of children whose cases are likely to result in certification to the Adult Court or commitment to a juvenile institution. Specifically these cases shall include a juvenile who is fourteen (14) years or older and is charged with one or more of the following:

- (a) rape
- (b) involuntary deviate sexual intercourse
- (c) arson
- (d) an assaultive crime (M-1 or greater), where
 - (i) the victim requires medical care, or
 - (ii) the juvenile is alleged to have used a gun or knife
- (e) escape after a prior adjudication and disposition.

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

- (1) Has fulfilled the qualifications for appointment of counsel in adult felony cases, *supra*;
- (2) Has prior experience as counsel in no fewer than five juvenile cases which were tried to completion in this or any other jurisdiction;
- (3) Has been counsel in at least two major felony juvenile cases within the past two years;
- (4) Has completed at least one Continuing Legal Education program in the field of juvenile law in the past year, is familiar with the Pennsylvania Juvenile Act and the Philadelphia Court of Common Pleas Juvenile Court Rules, and is reasonably available to accept appointments.]

Rescinded.

[**Rule 406-11. Standards for Appointment of Counsel in Non-Major Felony Juvenile Cases.**

In all other juvenile cases, an attorney may be appointed as counsel only if that attorney:

- (1) Has fulfilled the qualifications for appointment of counsel in adult misdemeanor cases (attached);
- (2) Has completed at least one Continuing Legal Education program in the field of juvenile law within the past year, is familiar with the Pennsylvania Juvenile Act and the Philadelphia Court of Common Pleas Juvenile Court Rules, and is reasonably available to accept appointment.

Editor's note: Adopted by the Board of Judges, General Court Regulation 88-5 May 18, 1988, Rule 406(B)(1), further amended September 15, 1988, General Court Regulation 88-6. This rule will be effective as to appointments made on and after January 1, 1989. Rule 406(D) amended by General Court Regulation 88-8, November 17, 1988 will be effective as to appointments made on and after February 1, 1989.]

[**Rule 406-12] Rule *122-7. Experience Exception to Standards.**

A. If any applicant fails to meet any of the above specified standards, the Screening Committee, after

conducting a personal interview with the applicant, may rate the applicant to be qualified if the applicant's experience, knowledge and training are clearly equivalent to the standards for the category in which applicant seeks qualification, except as otherwise required by Pa.R.Crim.P. 801.

B. Even if the applicant meets all of the specific standards in any category, but it appears to the Selection Committee that the applicant's experience, knowledge, training and/or past performance in specific cases, may show the need for more training or supervision, the Selection Committee may require the applicant to appear before the Committee for a personal interview, after which the Selection Committee may approve the applicant, or may require the applicant to undergo one of the remedial measures set forth in Rule [**406-15**] *122-9 before being approved. If the applicant refused to undergo those measures, or if after completing the measures, the Selection Committee still rejects the application, then the applicant may appeal the disapproval as provided in Rule [**406-14**] *122-8.

Editor's note: Adopted by the Board of Judges, General Court Regulations 89-3, May 31, 1989, effective immediately; the Board of Judges voted on February 17, 2005 to amend the preceding rule, pending final approval in May of 2005; amended July 14, 2005.

[**Rule 406-14] Rule *122-8. Performance Standards; Processing Complaints.**

A. *General:* The Screening Committee may refuse to approve applicants as provided in Rule [**406-12.B**] *122-7 B., or may impose remedial measures, if the applicant fails to meet the performance standards set forth in this Rule.

B. *Processing Complaints:*

1. Any complaint about the performance of any court-appointed counsel shall first be transmitted to an official in the Court Administrator's office designated for the receipt of such complaints. The official shall forward the complaint to the Chair of the Screening Committee.

2. All such complaints, as well as the identity of the complainant, shall remain absolutely confidential, except as set forth herein.

3. When the Chair of the Screening Committee receives such a complaint, he or she should appoint three members of the Committee as a Panel, and submit the complaint to that Panel. The Panel should review the complaint to determine whether it requires action. If the Panel finds that the complaint requires further action it should notify the subject and afford the subject an opportunity to reply or produce evidence in response to the complaint. The identity of the complainant should not be disclosed, unless the complainant waives confidentiality, provided that the non disclosure of the identity of the complainant does not preclude the subject from being able to address the substance of the complaint. Anonymity of the complainant shall go to the weight, but is not a bar to processing of a complaint. If it so determines, the Panel should notify the complainant that his or her identity will be disclosed, unless the complainant decides to withdraw the complaint.

4. Once the subject has submitted a reply to the complaint and any evidence deemed appropriate, the Panel should promptly review the matter. The Panel may recommend that the subject voluntarily undergo remedial measures. The Panel may in its discretion refer the

matter to a Hearing Committee, as set out hereinafter. If the Panel decides that the matter does not require an immediate disposition, then the subject shall be notified that no remedial action will be taken at this time, but the matter shall be deferred for up to two years. If the subject does not receive two more complaints within that two year period, then the matter will be closed and the complaint dismissed. If complaints of 2 additional incidents arising from separate proceedings arise during a two year period following the first complaint, all open complaints may be referred to a Hearing Committee as set out herein.

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

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

7. If a majority of the Hearing Committee finds that the charges have not been sustained by clear and convincing evidence, then the complaint should be dismissed with notice to the subject. If the Hearing Committee can impose any of the remedies set out in Rule [406-15] Rule *122-9 infra.

C. Appeals:

If the subject objects to any action of the Hearing Committee, then he or she may within 30 days appeal to the Court of Common Pleas. During the pendency of that appeal to the Court of Common Pleas, any remedies ordered shall be stayed. The President Judge of the Court of Common Pleas shall appoint three judges to hear such appeals. The scope of the hearing shall be de novo. One member of the Panel shall present the evidence concerning violation of the performance standard. The subject may also present any relevant evidence. The Court shall make any finding and impose any remedial measure authorized under [406-15] Rule *122-9 infra.

D. [Rule 427 excluded:] None of the actions of the Panel, the Hearing Committee, nor of the Court of Common Pleas shall relieve any attorney or judge from the right or obligation to make a proper report to the Disciplinary Board in accordance with local Rule of Criminal Procedure [427] 122-13.

Editor's note: The Board of Judges voted on February 17, 2005 to adopt the preceding rule, pending final approval in May of 2005; adopted July 14, 2005.

[Rule 406-15] Rule *122-9. Remedial Measures.

A. *General:* Once the Hearing Committee has determined that violation of these standards has been established, the Hearing Committee or reviewing court may impose any one or more of the following remedial measures. The purpose of these measures is not punitive, but

remedial. Accordingly, the least onerous measure or measures should be imposed which is designed to remedy the type of violation adjudged.

B. Types of remedies:

1. *Warning:* The subject should be warned of the nature of the deficiency, and that future complaints could be grounds for more serious sanctions.

2. *Continuing legal education:* The subject could be urged, or required, to attend an appropriate legal education course.

3. *Mentoring:* The subject could be urged, or required, to utilize the services of a mentor provided by the Screening Committee, for one or more court-appointed cases.

4. *Second chair:* The subject could be urged, or required, to sit as second chair to an experienced attorney, selected by the Screening Committee, for a specified number of cases.

5. *Probation:* The Subject could be placed on probation for a specified period of time or number of cases, during which the subject's rights to receive appointments could be conditioned upon such remedial measures as the Hearing Committee believes necessary. One member of the Prima Facie Panel should be named to monitor the subject during the probationary period.

6. *Suspension:* The subject can be suspended from receiving any appointments for a specified period of time or a number of cases, and can be required to undergo remedial measures during the period of suspension.

7. *Decertification:* If the deficiencies are considered very serious, and/or other remedial measures have not resulted in improvement, then the subject can be decertified from receiving appointments in a specific category or from all appointments. Any attorney decertified under this Rule may not reapply for appointments until at least one year has elapsed from the date of decertification and proof of satisfactory remediation is shown.

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

Editor's note: The Board of Judges voted on February 17, 2005 to adopt the preceding rule, pending final approval in May of 2005; adopted July 14, 2005.

[Rule 410. Appointment of Counsel in Homicide Cases.]

Rescinded March 10, 2011, effective January 2, 2012.

[Rule 415] Rule *122-10. Appointment of Counsel in Multiple Defendant Cases.

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

Source: Administrative Regulation 72-5, July 19, 1972.

[Rule 420. Appointment of Counsel for Cases Appealed to the Supreme Court or Superior Court of Pennsylvania.]

Rescinded March 10, 2011, effective January 2, 2012.

[Rule 421. Petition for Leave to Withdraw as Private or Court-Appointed Counsel in Homicide Cases.]

Rescinded March 10, 2011, effective January 2, 2012.

[Rule 424] Rule *122-11. Compensation Rates for Court-Appointed Counsel.

A. Non-Homicide Criminal Cases

(1) Counsel, not exceeding one, who has been assigned to represent:

(a) a defendant charge with a non-homicide criminal offense;

(b) an individual in any post-conviction proceedings or,

(c) a juvenile formally charged with delinquency, shall, at the conclusion of the representation, or any segment thereof, be compensated for his/her services in such representation and reimbursed for all reasonable expenses advanced by counsel which were necessarily incurred.

(2) Upon the conclusion of counsel's representation under this Rule, or any segment thereof, the Judge sitting at the trial of the case, if there is a trial; otherwise, the Judge presiding over the disposition of the matter shall, after the filing of the claim and sworn statement in accordance with Phila.Crim.R. [425] *122-12, allow such counsel all reasonable personal and incidental expenses, and compensation for services rendered.

(3) Counsel shall be compensated at a rate not exceeding forty dollars (\$40) per hour for time expended in a Court of record and at the rate of thirty dollars (\$30) per hour for time reasonably expended out of Court. For representation of a defendant in a case in which one or more felonies are charged or for proceedings under the Post Conviction [Hearing] Review Act, the compensation paid to an attorney shall not exceed fifteen hundred dollars (\$1,500). In a case in which only misdemeanors or juvenile delinquencies are charged, payment shall not exceed seven hundred and fifty dollars (\$750).

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

(5)(a) Assigned counsel may also make a written request to obtain investigative, expert or other services necessary to an adequate defense in accordance with Phila.Crim.R. [425G.(4)] *122-12G.(4). Upon finding after proper inquiry that such services are necessary, the Court shall authorize counsel to obtain such services on behalf of a defendant. The compensation paid to a person for such services rendered to a defendant shall not exceed five-hundred dollars (\$500).

(b) In order to expedite reimbursement to counsel for services rendered by investigators or other experts authorized by the Court, at the conclusion of such expert services rendered on behalf of the defendant counsel may submit a Petition and Order for reimbursement to counsel of such expert fees. Said Petition and Order shall be submitted to either the Trial Judge, if there is a trial, or to the Judge presiding over the disposition of the matter and may be submitted at any stage of the proceedings. The Petition and Order for reimbursement must contain

all information and exhibits relevant to the reimbursement of expenses as described in Phila.Crim.R. [425(D)(1) and (2)] *122-12(D)(1) and (2). Upon submission by counsel of the Petition and Order for reimbursement, the appropriate Judge shall immediately review the Petition and authorize payment to counsel of such expert fees as are considered reasonable and necessary in accordance with Phila.Crim.R. [425(G)(2)] *122-12(G)(2). The reviewing Judge will then forward the Petition and Order for reimbursement to the Deputy Court Administrator for Fiscal Affairs for review and payment.

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

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

B. Homicide Cases

(1) The appointment of counsel in homicide cases shall be made [in accordance with the procedures contained in Phila.Crim.R. 410] as may be provided by the Administrative Judge from time to time.

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

(3)(a) Assigned counsel may also make a written request to obtain investigative, expert or other services necessary to an adequate defense in accordance with Phila.Crim.R. [425G(4)] *122-12G(4). Upon finding after proper inquiry that such services are necessary, the Court shall authorize counsel to obtain such services on behalf of a defendant.

(3)(b) In order to expedite reimbursement to counsel for services rendered by investigators or other experts authorized by the Court at the conclusion of such expert services rendered on behalf of the defendant counsel may submit a Petition and Order for reimbursement to counsel for such expert fee. Said Petition and Order shall be submitted to either the Trial Judge, if there is a trial, or to the Judge presiding over the disposition of the matter and may be submitted at any stage of the proceedings. The Petition and Order for reimbursement must contain all information and exhibits relevant to the reimbursement of expenses as described in Phila.Crim.R. [425(D)(1) and (2)] *122-12(D)(1) and (2). Upon submission by counsel of the Petition and Order for reimbursement, the appropriate Judge shall immediately review the Petition and authorize payment to counsel of such expert fees as are considered reasonable and necessary in accordance with Phila.Crim.R. [425(G)(2)] *122-12(G)(2). The reviewing Judge will then forward the Petition and Order for reimbursement to the Deputy Court Administrator for Fiscal Affairs for review and payment.

(4) Upon the conclusion of counsel's representation under this Rule, or any segment thereof, the Judge sitting at the trial of the case, if there is a trial; otherwise, the

Judge presiding over the disposition of the matter shall, after the filing of the claim and sworn statement in accordance with Phila.Crim.R. [425] *122-12, allow such counsel all reasonable personal and incidental expenses, and compensation for services rendered.

(5) Counsel shall be compensated for services rendered at a rate not exceeding fifty dollars (\$50) per hour for time reasonably expended in Court, and forty dollars (\$40) per hour for time reasonably expended out of Court. Such compensation shall not exceed four thousand dollars (\$4,000) where one counsel has been assigned, and shall not exceed a total of six thousand (\$6,000) where two counsel have been assigned. Payment in excess of the limits stated herein may only be made, if the Court to whom the application is made certifies to the President Judge that because of extraordinary circumstances set forth, such additional payments are necessary to provide fair compensation for representation. Any payment in excess of the above limits will be at the discretion of the President Judge. When two counsel have been assigned, their claims for compensation and reimbursement shall be stated separately. Each claim for compensation and reimbursement shall be made in accordance with the provisions of Phila.Crim.R. [425] *122-12.

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

C. *Appointments.* Appointments made pursuant to this Rule continue through all stages of the proceedings in accordance with Phila.Crim.R. [425(B)] *122-12(B).

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

E. *Reimbursement*

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

(2) The Common Pleas Court shall have the power to hear, determine and make orders and decrees in such cases upon the petition of the City and County of Philadelphia. Such order shall have the force and effect of a judgment for the payment of money and shall be entered in the judgment index of the Office of the Prothonotary.

(3) In all cases where an order has been made by the Court for reimbursement to the City and County of Philadelphia for compensation and expenses paid to Court-assigned counsel and the said order has not been complied with, the Court, or any Judge thereof, upon affidavit or petition filed setting forth that the person on whom the said order has been made has not complied with the said order, shall issue an attachment directed to the Sheriff, directing and commanding that the person named as having failed to comply with said order be brought before the Court at such time as the Court may

direct. If it shall appear to the Court, after hearing, that the person on whom the said order was made has willfully neglected or refused to comply with said order, the Court may adjudge said person in contempt of Court and, in its discretion, may commit said person to the county jail for a period not exceeding six months.

Note: This Rule shall be effective as to all appointments made on or after July 1, 1986. Appointments made prior to July 1, 1986, shall be governed by Act 438 of January 19, 1968 (non-homicide criminal cases) and Act 180 of July 22, 1970 (homicide cases).

Editor's note: Adopted by the Board of Judges February 27, 1986, General Court Regulation 86-1, effective July 1, 1986; further amended by the Board of Judges, General Court Regulation 89-4, May 18, 1989, effective immediately.

[**Rule 425**] **Rule *122-12.** Guidelines for Court-Appointed Counsel Who Request Compensation and Reimbursement in Criminal Cases.

A. *Statutes:*

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

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

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

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

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

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

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

D. Content of Requests for Compensation:

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

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

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

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

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

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

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

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

(1) In-Court time is that time which counsel is actually engaged in Court representing the defendant in the assigned case in a judicial proceeding. Out-of-Court time

is all other time reasonably expended in the representation of the defendant in the assigned case including time spent waiting in Court for the case to be reached. It is within the Judge's discretion to determine whether time is reasonably spent. The Court in determining reasonableness may consider whether the time spent was necessary or whether less time consuming alternatives existed.

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

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

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

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

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

Administrative Regulation No. 76-9, effective May 13, 1976; superseded by Administrative Regulation no. 79-6, November 7, 1980; paragraphs E and F amended June 1, 1981 by Administrative Regulation 81-2; paragraph B amended by General Court Regulation 85-5, effective May 7, 1985.

PART E. MISCELLANEOUS WARRANTS

Rule [427] *122-13. Procedure in Cases Involving Ineffective Assistance of Counsel.

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

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

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

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

Editor's note: General Court Regulation 86-3, March 7, 1986, effective immediately; further amended May 9, 1986, General Court Regulation 86-4, effective immediately.

Rule [430] *122-14. Attorneys with Twenty (20) or More Cases.

Counsel representing defendants in twenty (20) or more criminal cases which have not been brought to trial within six months of the initiation of prosecution (such category will hereinafter be referred to as "inventory") shall be precluded from entering an appearance for or in any other manner representing any additional defendant or defendants in any other criminal case in any Court in this county until such time as said inventory is reduced to less than twenty (20) cases.

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

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

(1) The accuracy of the list prepared by the Court Administrator,

(2) The responsibility for the delay in any of the listed cases,

(3) The existence of extraordinary circumstances or compelling reasons justifying exemption from the Rule. The filing of such a petition shall operate as a super-seedeas.

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

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

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

Editor's note: General Court Regulation 73-3, July 5, 1973.

Rule 435. Cases in which Victim is a Minor.

All cases in which a victim is a minor are to be [sent to 1801 Vine Street] heard by the Family Court Division, Juvenile Branch. [If the case is for an offense, the penalty for which is under five (5) years, it should be listed for trial at 1801 Vine Street no less than twenty (20) days from the date of the preliminary arraignment. If the case involves an offense, the penalty for which is greater than five (5) years, it shall be listed at 1801 Vine Street three (3) to ten (10) days after the preliminary arraignment for preliminary hearing.]

Rule 440. Expungement Petition Procedure.

Rescinded

Rule 441. Automated Expungement under Sections 17, 18 and 19 of the Controlled Substance, Drug, Device and Cosmetic Act.

Rescinded

Rule 442. Automated Expungement under the Accelerated Rehabilitative Disposition Program for the Common Pleas and Municipal Courts.

Rescinded

CHAPTER 2. INVESTIGATIONS

PART A. SEARCH WARRANTS

[Rule 402] Rule *202. Approval of Search Warrant Applications by the Attorney for the Commonwealth.

The District Attorney of Philadelphia County having filed a certification pursuant to Pa.R.Crim.P. [2002A] 202, no search warrants shall [hereafter be issued by any judicial officer unless the search warrant application has the approval of an attorney for the Commonwealth prior to filing] be submitted to any

judicial officer unless it has first been reviewed and approved by an attorney for the Commonwealth.

Note: Former Philadelphia Criminal Rule 402.

CHAPTER 4

PART F. PROCEDURES IN SUMMARY CASES FOR APPEALING TO COURT OF COMMON PLEAS FOR A TRIAL DE NOVO

*(Editor's Note: Rule *462 is new and printed in regular type to enhance readability.)*

Rule *462. Trial De Novo. Summary Appeals.

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

CHAPTER 5. PRETRIAL PROCEDURES IN COURT CASES

PART B(1). COMPLAINT PROCEDURES

[**Rule 401**] **Rule *507.** Approval of Police Complaints and Arrest Warrant Affidavits by the Attorney for the Commonwealth.

The District Attorney of Philadelphia County having filed a certification pursuant to Pa.R.Crim.P. [**101A**] **507**, criminal complaints and arrest warrant affidavits by police officers, as defined in the Rules of Criminal Procedure, charging any misdemeanor or felony shall not [**hereafter be accepted in any case by any judicial officer unless the complaint or affidavit has the approval of an attorney for the Commonwealth prior to filing**] be submitted to any judicial officer unless it has first been reviewed and approved by an attorney for the Commonwealth.

Note: Source: Former Philadelphia Criminal Rule 401.

PART C. BAIL

[**Rule 500**] **Rule 520.** Regulations Pertaining to Bail, Court of Common Pleas and Municipal Court.

(Current rule retained in its entirety)

PART C(1). RELEASE PROCEDURES

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

(A) Any defendant who has been properly granted bail may obtain his release from custody as provided herein by depositing with the issuing authority or clerk of Court a sum of money equal to ten percent (10%) of the full amount of the bail, but in no event less than twenty-five dollars (\$25), and by executing a bail undertaking. A private individual who is not a surety or fidelity company or professional bail bondsman or agent thereof may act as a third-party surety and execute the aforementioned bail undertaking on behalf of the defendant. Except as provided in this section, no other individual or business entity may act as a third-party surety.

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

be retained by the Court. This sum shall be considered earned at the time the bail undertaking is executed.

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

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

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

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

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

Editor's note: Star Rule *4008.1, adopted May 17, 1973; Star Rule *4009.1, adopted May 17, 1973, and Star Rule *4010(c), adopted May 20, 1971. Rule renumbered and Comment amended by Administrative Order 03 of 2012.

PART C(2). GENERAL PROCEDURES IN ALL BAIL CASES

[**Rule 505**] **Rule *530. Duties and Powers of Bail Agency.** Pretrial Services Division.

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

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

Star Rule *4007.1, adopted May 17, 1973; General Court Regulation 71-7, July 8, 1971.

[Rule 510. Bench Warrant Bail Forfeiture.] Rule *536. Procedures upon Violation of Conditions: Revocation of Release and Forfeiture; Bail Pieces; Exoneration of Surety.

(A) The presiding Judge may issue a bench warrant and order bail to be forfeited whenever the defendant does not appear on a day indicated, within one hour of the scheduled Court action. At preliminary arraignment each defendant shall be given written notice of his next Court appearance. This notice shall state the date, time and place of the required appearance. It shall be the responsibility of the defendant to appear for any scheduled Court action. The defendant shall be served with written notice of any subsequent Court action, but failure to receive notice will not relieve the defendant of the responsibility of appearing.

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

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

(C) Rescinded.

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

(1) The surety shall file a petition [**in original and three copies**] with the [**Clerk of Quarter Sessions substantially in the form set forth in Appendix A**] Office of Judicial Records as may be provided from time to time.

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

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

<i>Amount of time between bench warrant and defendant's return to jurisdiction of the Court</i>	<i>Percentage of judgment which will be reduced</i>
0—60 days	90%
61—90 days	70%

<i>Amount of time between bench warrant and defendant's return to jurisdiction of the Court</i>	<i>Percentage of judgment which will be reduced</i>
91—120 days	50%
121—180 days	30%
Over 180 days	0%

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

[Rule 520. Bail Piece Procedure. (A)] (E) Any surety, for proper cause finding his position insecure, may apply to and obtain a Bail Piece from the [**Bail Clerk, Clerk of Quarter Sessions Court**] Office of Judicial Records. This Bail Piece shall entitle said surety to arrest the named defendant for which the surety has deposited bail and surrender him to the Superintendent of Prisons for incarceration. The Superintendent of Prisons shall accept said defendant for incarceration when a proper bail piece is submitted to him.

Editor's note: General Court Regulation 71-3, July 1, 1971; General Court Regulation 72-18, April 28, 1972; amended by General Court Regulation 85-3, effective May 6, 1985; section (C) rescinded February 29, 2012 by Administrative Order No. 01 of 2012.

PART D. PROCEEDINGS IN COURT CASES BEFORE ISSUING AUTHORITIES

[Rule 550] Rule *540. Preliminary Arraignment.

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

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

Editor's 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 555] Rule *542. Preliminary Hearing.

(A) A Municipal Court judge may dismiss a case at preliminary hearing when the Commonwealth witnesses fail to appear three times. The court may issue bench warrants for Commonwealth witnesses in appropriate cases.

(B) A Municipal Court judge may appoint the Defender Association to represent the defendant at the preliminary hearing only where the case has previously been continued for the non-appearance of private counsel.

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

PART F. PROCEDURES FOLLOWING FILING OF INFORMATION

Rule 560. Arraignment.

Rescinded

*(Editor's Note: Rule *571 is new and printed in regular type to enhance readability.)*

Rule *571. Arraignment.

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

scheduled Arraignment date, and the Arraignment is not waived by the defendant, the Arraignment shall be continued until the Information is filed. However, the Arraignment may be waived, even if the Information has not been filed, consistent with Pa.R.Crim.P. 571.

Note: Pa.R.Crim.P. 571(D) facilitates the Arraignment of a represented defendant by mail or through the execution of a court sanctioned Waiver Form.

**Adoptions, Rescissions, Amendments to the Court of Common Pleas
Local Criminal Rules Adopted by Board of Judges at 5-15-14 Meeting**

#	<i>Local Rule</i>	<i>Current #</i>	<i>Comment</i>
1	*100. Scope of Rules	None	New Rule.
2	*102. Citing the Local Criminal Procedural Rules	None	New Rule.
3	*103. Definitions	None	New Rule.
4	*104. Design of Forms	None	New Rule.
5	*105. Local Rules	None	New Rule.
6	*107. Contents of Subpoena	None	New Rule.
7	*115. Recording and Transcribing Court Proceedings	None	New Rule.
8	400. Emergency Criminal Court Operation Plan	same	Rescinded.
9	*122-1. Homicide Appointments System	same	Rescinded
10	*122. Standards for Appointment of Counsel	406 ⁱ	Renumbered; Amended.
11	*122-1. Standards for Appointment in Homicide Cases	406-1	Rescinded in 2011; # reserved
12	406-2. Appeals in Death Penalty Cases	same	Rescinded in 2011
13	*122-2 Standards for Appt. of Appellate Counsel in Cases Where the Death Penalty Has Been Imposed		New Rule No.; # Reserved
14	*122-3. Standards for Appt. of Appellate Counsel in Cases Where the Death Penalty Has Not Been Imposed	406-3 & 8	Renumbered
15	406-4 Post Conviction Petitions by Prisoners Under Sentence of...	same	Rescinded in 2011
16	*122-4 Standards for Appt. of PCRA Counsel in Cases Where the Death Penalty Has Not Been Imposed etc.	406-5 & 9	Renumbered; Amended
17	*122-5 Standards for Appointment in Felony Cases	406-6	Renumbered; Amended
18	*122-6 Standards for Appointment of Counsel in Misdemeanor Cases	406-7	Renumbered
19	406-10 Standards for Appointment in Major Felony Juvenile Cases	same	Rescinded.
20	406-11 Standards for Appt. of Counsel in Non-Major Felony Juvenile	same	Rescinded
21	*122-7 Experience Exception To Standards	406-12	Renumbered; Amended
22	*122-8 Performance Standards; Processing Complaints	406-14	Renumbered; Amended
23	*122-9 Remedial Measures	406-15	Renumbered
24	410 Appointment of Counsel in Homicide cases	same	Rescinded in 2011
25	*122-10 Appointment of Counsel in Multiple Defendant Cases	415	Renumbered
26	420 Appointment of Counsel for Cases Appealed to Supreme Court	same	Rescinded in 2011
27	421 Petition for Leave to Withdraw as Private or Court Appointed...	same	Rescinded in 2011
28	*122-11 Compensation Rates for Court-Appointed Counsel	424	Renumbered. Amended
29	*122-12 Guidelines for Court-Appointed Counsel Who Request Compensation and Reimbursement in Criminal Cases	425	Renumbered; Amended
30	*122-13 Procedure in Cases Involving Ineffective Assistance of Counsel	427	Renumbered
31	*122-14 Attorneys with Twenty (20) or More Cases	430	Renumbered
32	435 Cases in which Victim if a Minor	435	Renumbered
33	440 Expungement Petition Procedure	same	Rescinded

ⁱ The 406 rules not rescinded have been renumbered (122-x) to be consistent with the state rules numbering scheme. References to renumbered local rules have similarly been updated throughout.

#	Local Rule	Current #	Comment
34	441 Automated Expungement under Section 17, 18 and 19 of the...	same	Rescinded
35	442 Automated Expungement under the Accelerated Rehabilitative...	same	Rescinded
36	*202 Approval of Search Warrant Applications by Attorney for the Commonwealth	402	Renumbered; Amended
37	*462 Trial De Novo. Summary Appeals	None	New Rule
38	*507 Approval of Police Complaints and Arrest Warrant Affidavits by the Attorney for the Commonwealth	401	Renumbered; Amended
39	*520 Regulations Pertaining to Bail, Court of Common Pleas and Municipal Court	500	Renumbered
40	528 Ten Percent (10%) Deposit of Bail	same	Amended in 2012
41	*530 Duties and Powers of Bail Agency	505	Renumbered
42	*536 Procedures upon Violation of Conditions: Revocation of Bail etc.	510 & 520	Renumbered; Amended
43	*540 Preliminary Arraignment	550	Renumbered; Amended
44	*542 Preliminary Hearing	555	Renumbered
45	560 Arraignment	same	Rescinded
46	*571 Arraignment	New rule	New Rule

[Pa.B. Doc. No. 14-1302. Filed for public inspection June 20, 2014, 9:00 a.m.]

Title 255—LOCAL COURT RULES

LEHIGH COUNTY

Adoption of Criminal Rules 101.1, 103.1, 531.2 and 536.1 Relating to Bail; AD 3-2014

Order

And Now, this 30th day of May, 2014, *It Is Ordered* that the following Rules of Criminal Procedure, in and for the 31st Judicial District of Pennsylvania composed of Lehigh County, be, and the same are, promulgated herewith, to become effective ninety (90) days after their publication in the *Pennsylvania Bulletin*.

It Is Further Ordered that two (2) certified copies shall be filed with the Legislative Reference Bureau for publication in the *Pennsylvania Bulletin*; that one (1) certified copy shall be filed with the Criminal Rules Committee of the Supreme Court of Pennsylvania; that seven (7) certified copies shall be filed with the Administrative Offices of Pennsylvania Courts; and that one copy shall be filed with the Clerk of Judicial Records of Lehigh County.

By the Court

KELLY L. BANACH,
Administrative Judge

LEHIGH COUNTY BAIL RULES

Rule 101.1. Construction of Rules; Consistency with Statewide Rules.

(a) All rules of construction adopted by the Supreme Court of Pennsylvania shall apply to local rules adopted by the Court of Common Pleas of Lehigh County that govern the practice and procedure in criminal matters.

(b) Any requirement imposed by these rules is in addition to, and not in lieu of, the requirements under the Pennsylvania Rules of Criminal Procedure.

(c) No pleading or other legal paper shall be refused for filing by the clerk of courts based upon a failure to comply with a requirement imposed by these rules. No case shall be dismissed nor request for relief granted or denied because of a failure to comply with such a requirement. If a party fails to comply with such a requirement, the court shall notify the party of the failure and provide a reasonable time for the party to comply with the requirement.

Rule 103.1. Definitions.

(a) Definitions contained in Pa.R.Crim.P. 103 shall apply to all local rules heretofore and hereafter adopted which govern practice and procedure in criminal matters.

(b) The following words and phrases, when used in any Lehigh County Rule of Criminal Procedure, shall have the following meanings:

Bail Enforcement Agent is an individual who performs services or takes action for the purpose of enforcing the terms and conditions of a defendant's release from custody on bail, including locating, apprehending and surrendering a defendant released from custody on bail who has failed to appear at a specified time and place pursuant to Order of Court. The term does not include police officers, sheriffs, court officers or law enforcement personnel who execute warrants of arrest for bail forfeitures pursuant to their official duties.

Clerk of Judicial Records, Criminal Division is the Chief Deputy of the Lehigh County Clerk of Judicial Records, Criminal Division.

Corporate Surety is a corporation, limited liability corporation, fidelity company or other legal entity which issues bail bonds through agencies and/or agents and is licensed by the Pennsylvania Department of Insurance to do business in the Commonwealth of Pennsylvania.

Corporate Surety Agency is an agency for a Corporate Surety which engages in the business of providing bail, providing or soliciting bail undertakings and/or providing

or soliciting indemnity or counter-indemnity to others on bail undertakings and is licensed by the Pennsylvania Department of Insurance to do business in the Commonwealth of Pennsylvania.

Corporate Surety Agency Agent is an individual person who acts as an agent of a Corporate Surety Agency.

Department of Law is the Lehigh County Department of Law.

Pretrial Services is Lehigh Valley Pretrial Services, Inc.

President Judge is the President Judge of the Court of Common Pleas of Lehigh County.

Professional Bail Bondsman is an individual who, in strict compliance with the Pennsylvania Professional Bondsman Act, 42 Pa.C.S. §§ 5741—5749: (1) engages in the business of giving bail, giving or soliciting undertakings, or giving or soliciting indemnity or counter-indemnity to securities on undertakings; or (2) within a period of 30 days has become a surety, or has indemnified a surety, for the release on bail of a person, with or without a fee or compensation, or promise thereof; in three or more matters not arising out of the same transaction and is licensed by the Pennsylvania Department of Insurance to do business in the Commonwealth of Pennsylvania.

Surety Business is any Corporate Surety, Corporate Surety Agency or Professional Bail Bondsman.

Rule 531.2. Regulation of Surety Businesses, Corporate Sureties, Corporate Surety Agencies, Corporate Surety Agency Agents and Professional Bail Bondsmen.

(a) *Requirements to Become Qualified.* To become qualified to post bond in Lehigh County:

(1) Each Surety Business must fully comply with all laws, statutes, local rules and rules of court as may be established from time to time.

(2) Each Surety Business must Deliver to the Clerk of Judicial Records, Criminal Division satisfactory proof, on the approved form, that the Surety Business, is licensed by the Pennsylvania Department of Insurance to do business in the Commonwealth of Pennsylvania;

(3) Each Surety Business must Deliver satisfactory proof of the agency relationship between the Surety Business and its agents to the Clerk of Judicial Records, Criminal Division. The execution of any bail bond by such agents shall be a valid and binding obligation of the Surety Business;

(4) Each Surety Business must Deliver satisfactory proof to the Clerk of Judicial Records, Criminal Division that any agent designated to act on behalf of the Surety Business, is duly licensed by the Pennsylvania Department of Insurance;

(5) Each Surety Business must Deliver satisfactory proof to the Clerk of Judicial Records, Criminal Division that the Surety Business maintains an office in Lehigh County from which its business is conducted and where service of notices may be made. Every Surety Business, shall keep at its office in Lehigh County the usual and customary records pertaining to transactions authorized by its license and/or the license of any of its agents, including, but not limited to, such records of bail bonds executed or countersigned by the surety business, to enable the court to obtain all necessary information concerning such bail bonds for at least three (3) years after the liability of the surety has been terminated. Such records shall be open at all times to examination, inspec-

tion or copying by the Court or its representative. Any and all information shall be furnished in such manner or form as the Court requires;

(6) Each Surety Business must Certify to the Clerk of Judicial Records, Criminal Division that no owner, principal, officer or agent of the Surety Business has been convicted of any non-summary criminal offense. The certification must be based on a criminal history records check conducted by the Pennsylvania State Police for each employee and agent, and a copy of the search results must be attached to a list of employees and agents and certification submitted with the petition required by subsection (c) of this rule. Conviction of an agent or employee of a surety business will render the Surety Business ineligible to conduct business in the Thirty-first Judicial District;

(7) Each Corporate Surety Agency and Professional Bail Bondsman must post with the Clerk of Judicial Records, Criminal Division as security, in increments of \$50,000 and no less than \$50,000 in United States currency or unencumbered securities of the United States Government, which will entitle the Corporate Surety Agency or Professional Bail Bondsman, to post bond in an aggregate sum determined by multiplying the amount posted by a factor of six (6) (e.g., if a Corporate Surety Agency or Professional Bail Bondsman posts security of \$50,000 that Corporate Surety Agency or Professional Bail Bondsman would be eligible to post bonds not to exceed the aggregate amount of \$300,000; if a that Corporate Surety Agency or Professional Bail Bondsman posts security of \$250,000, that that Corporate Surety Agency or Professional Bail Bondsman would be eligible to post bonds not to exceed the aggregate amount of \$1,500,000), and by further posting the sum required for each individual bond or undertaking with the bail authority;

(8) Each Surety Business must provide to the Clerk of Judicial Records, Criminal Division a financial statement certified by a Certified Public Accountant which verifies that the Surety Business has sufficient assets to satisfy all bail obligations undertaken by or on behalf of the Surety Business in the Thirty-first Judicial District and in other jurisdictions in which the Surety Business conducts business. A current certified statement must be filed with the petition required in subsection (c) of this rule;

(9) Each Surety Business must certify to the Clerk of Judicial Records, Criminal Division that only the Surety Business which is approved by the President Judge upon petition as provided in this rule, may post bail for defendants, in the name exactly as it appears on the surety's license, and not in the name of any agent or other business entity;

(10) Each Surety Business must certify to the Clerk of Judicial Records, Criminal Division a schedule of the fees to be charged Criminal Division defendants for issuing the bail bond. Such fees may not change unless notice is given to the President Judge at least thirty (30) days prior to the effective date of the proposed revised fees (see 42 Pa.C.S.A. § 5748);

(11) Upon approval of the petition required in subsection (c) of this rule, each Corporate Surety shall register with the Clerk of Judicial Records, Criminal Division and pay to the Clerk of Judicial Records, Criminal Division an initial registration fee of \$50.00, or such amount as may be established from time to time by the Clerk of Judicial Records, Criminal Division with the approval of the President Judge or his or her designee;

(12) Upon approval of the petition required in subsection (c) of this rule, each Corporate Surety Agency and Professional Bail Bondsman shall register with the Clerk of Judicial Records, Criminal Division and pay to the Clerk of Judicial Records, Criminal Division an initial registration fee of \$500.00, or such amount as may be established from time to time by the Clerk of Judicial Records, Criminal Division with the approval of the President Judge;

(13) Upon approval of the petition required in subsection (c) of this rule, each Corporate Surety Agency Agent shall register with the Clerk of Judicial Records, Criminal Division and pay to the Clerk of Judicial Records, Criminal Division an initial registration fee of \$50.00, or such amount as may be established from time to time by the Clerk of Judicial Records, Criminal Division with the approval of the President Judge;

(14) Each Surety Business must certify that the Surety Business will not represent itself, directly or indirectly, as an employee or agent of the Commonwealth of Pennsylvania or the County of Lehigh. Agents and employees of a Surety Business must not wear clothing or present badges or any other form of law enforcement credentials that create the impression of employment of the Commonwealth of Pennsylvania, the Thirty-first Judicial District or any of its units, including Pre-trial Services or the Lehigh County Sheriff's Department of the Thirty-first Judicial District or the County of Lehigh;

(b) *Requirements to Remain Qualified.* To remain qualified to post bond in Lehigh County:

(1) Each Surety Business must maintain compliance with the requirements specified in subsection (a) of this rule;

(2) Each Surety Business must provide quarterly statements certified by the Surety Business that it is in compliance with the security posting requirements specified in subsection (a)(7) of this rule to the Clerk of Judicial Records, Criminal Division as required by 42 Pa.C.S.A. § 5747;

(3) Each Surety Business must provide to the Clerk of Judicial Records, Criminal Division, on a quarterly basis, or as often as requested by the President Judge, a financial statement certified by a Certified Public Accountant which verifies that the Surety Business has sufficient assets to satisfy all bail obligations undertaken by the Surety Business in the Thirty-first Judicial District and in other jurisdictions in which the Surety Business conducts business;

(4) Each Surety Business must satisfy in full any forfeiture order entered against a defendant or the Surety Business for a defendant's violation of a bail bond within ninety (90) days of the issuance of the order. In the event the Surety Business fails to satisfy such forfeiture order, the order will be satisfied from the funds posted with the Clerk of Judicial Records, Criminal Division pursuant to subsection (a)(7) of this rule. In that event, the Surety Business will be prohibited from posting additional bail until such time as all forfeiture orders entered against the Surety Business are satisfied in full;

(5) Each Surety Business must immediately notify, in writing, the President Judge and the Department of Law if an owner, principal, officer or agent of a Surety Business has been charged with any non-summary criminal offense, or if the license of an agent or employee has been revoked, suspended or not renewed in the Commonwealth of Pennsylvania or any other jurisdiction;

(6) If the aggregate maximum amount of unsettled and outstanding bail forfeitures for a Corporate Surety Agency or Professional Bail Bondsman, as determined by the Clerk of Judicial Records, Criminal Division, equals or exceeds the actual amount of security posted by that Corporate Surety Agency or Professional Bail Bondsman under 531.2(a)(7), that Corporate Surety Agency or Professional Bail Bondsman must immediately cease posting bonds and the Clerk of Judicial Records, Criminal Division shall immediately cease accepting bonds by that Corporate Surety Agency or Professional Bail Bondsman as no further bonds by that Corporate Surety Agency or Professional Bail Bondsman are authorized or acceptable for posting in Lehigh County. The Clerk of Judicial Records, Criminal Division shall promptly notify the Department of Law of the occurrence of a Corporate Surety Agency or Professional Bail Bondsman having reached its maximum limit and the Department of Law shall immediately send written notice of that Corporate Surety Agency or Professional Bail Bondsman having reached this maximum limit to that Corporate Surety Agency or Professional Bail Bondsman, the President Judge, the District Attorney and the Magisterial District Judges of Lehigh County and provide a copy of the notification to the Clerk of Judicial Records, Criminal Division. Upon receipt of the notification from the Department of Law, the Magisterial District Judges of Lehigh County shall also immediately cease accepting bonds by that Corporate Surety Agency or Professional Bail Bondsman. When full financial settlement has been made of the outstanding bail forfeitures, the Clerk of Judicial Records, Criminal Division shall promptly notify the Department of Law and the Department of Law shall notify that Corporate Surety Agency or Professional Bail Bondsman, the President Judge, the District Attorney, the Magisterial District Judges of Lehigh County and the Clerk of Judicial Records, Criminal Division that the posting of bonds by that Corporate Surety Agency or Professional Bail Bondsman may resume.

(7) If the aggregate maximum amount of unsettled and outstanding bail forfeitures of a Corporate Surety Agency Agent, as determined by the Clerk of Judicial Records, Criminal Division, equals or exceeds \$100,000, the Corporate Surety Agency Agent must immediately cease posting bonds and the Clerk of Judicial Records, Criminal Division shall immediately cease accepting bonds by the Corporate Surety Agency Agent as no further bonds by the Corporate Surety Agency Agent are authorized or acceptable for posting in Lehigh County. The Clerk of Judicial Records, Criminal Division shall promptly notify the Department of Law of the occurrence of a Corporate Surety Agency Agent having reached its maximum limit of \$100,000 and the Department of Law shall immediately send written notice of the Corporate Surety Agency Agent having reached this maximum limit to the Corporate Surety Agency Agent, the President Judge, the District Attorney and the Magisterial District Judges of Lehigh County and provide a copy of the notification to the Clerk of Judicial Records, Criminal Division. Upon receipt of the notification from the Department of Law, the Magisterial District Judges of Lehigh County shall also immediately cease accepting bonds by the Corporate Surety Agency Agent. When full financial settlement has been made of the outstanding bail forfeitures, the Clerk of Judicial Records, Criminal Division shall promptly notify the Department of Law and the Department of Law shall notify the Corporate Surety Agency Agent, the President Judge, the District Attorney, the Magisterial District Judges of Lehigh County and the Clerk of Judicial

Records, Criminal Division that the posting of bonds by the Corporate Surety Agency Agent may resume.

(8) Each Surety Business must not represent or identify itself, directly or indirectly, as employees or agents of the Commonwealth of Pennsylvania or Thirty-first Judicial District or the County of Lehigh. The agents and employees of a Surety Business must not wear clothing or present badges or any other form of law enforcement credentials that create the impression of employment by the Commonwealth of Pennsylvania, the Thirty-first Judicial District or any of its units, including Pre-trial Services or the Lehigh County Sheriff's Department or the County of Lehigh;

(9) Each Corporate Surety must annually renew their registration with the Thirty-first Judicial District, provide all certifications required by this rule and pay to the Clerk of Judicial Records, Criminal Division an annual renewal registration fee of \$50.00, or such amount as may be established from time to time by the Clerk of Judicial Records, Criminal Division with the approval of the President Judge;

(10) Each Corporate Surety Agency and Professional Bail Bondsman must annually renew their registration with the Thirty-first Judicial District, provide all certifications required by this rule and pay to the Clerk of Judicial Records, Criminal Division an annual renewal registration fee of \$100.00, or such amount as may be established from time to time by the Clerk of Judicial Records, Criminal Division with the approval of the President Judge;

(11) Each Corporate Surety Agency Agent shall annually renew their registration with the Thirty-first Judicial District, provide all certifications required by this rule and pay to the Clerk of Judicial Records, Criminal Division an annual renewal registration fee of \$50.00, or such amount as may be established from time to time by the Clerk of Judicial Records, Criminal Division with the approval of the President Judge;

(12) Each Surety Business and Corporate Surety Agency Agent must fully comply with all laws, statutes, local rules, rules of court and procedures as may be established from time to time.

(13) Each Surety Business, its owners, principals, officers and agents, must not engage in Prohibited Conduct as set forth in 531.2(e) hereunder.

(c) *Seeking Approval as a Surety Business.* Any Surety Business which is licensed by the Pennsylvania Department of Insurance may seek approval to post bail in the Thirty-first Judicial District by filing a petition with the Clerk of Judicial Records, Criminal Division. The petition must provide the information, documents and certifications set forth in subsection (a) of this rule. Upon filing, the petition will be assigned to a Judge for determination.

(d) *Opportunity to be Heard.* A Surety Business whose petition seeking approval to post bail in the Thirty-first Judicial District is denied will be provided an opportunity to be heard and to contest the denial. Any Surety Business seeking to contest the denial of its petition for approval to post bail in the the Thirty-first Judicial District must file a petition with the Clerk of Judicial Records, Criminal Division and serve the Department of Law within thirty (30) days of the date of denial of its initial petition, and set forth the relief requested and the factual basis therefor. Similarly, a Surety Business which has received approval to post bail in the Thirty-first Judicial District as provided in this rule but which has been subsequently prohibited from posting additional bail,

whose right to post bail has been revoked under 531.2(f), or is otherwise ineligible to post bail in the Thirty-first Judicial District, will be provided an opportunity to be heard. Any Surety Business, seeking to contest that it has been prohibited from posting additional bail, that its right to post bail has been revoked under 531.2(f), or that it is otherwise ineligible to post bail in the Thirty-first Judicial District must file a petition with the Clerk of Judicial Records, Criminal Division and serve the Department of Law within thirty (30) days of the date of the prohibition, revocation or determination of ineligibility, and set forth the relief requested and the factual basis therefor.

(e) *Prohibited Conduct.* A Surety Business, and its owners, principals, officers and agents, may not engage in prohibited conduct, which includes the violation of any applicable laws, statutes, local rules, rules of court, or the commission of any of the following acts:

(1) having a license as a Surety Business revoked in this or any other state;

(2) being involved in any transaction which shows unfitness to act in a fiduciary capacity or a failure to maintain the standards of fairness and honesty required of a fiduciary;

(3) having any judgment entered which would reduce the Surety Business' net worth below the minimum required for licensure;

(4) being convicted of any non-summary criminal offense with the exception of misdemeanors under the Pennsylvania Vehicle Code;

(5) failing to promptly advise the Clerk of Judicial Records, Criminal Division of any change in circumstances which would materially affect any of the statements, information or certifications required by this rule;

(6) using an unregistered agent to post bail or provide any bail undertaking on behalf of the Surety Business;

(7) using an individual or entity not contracted and appointed by the Surety Business to post bail or provide bail undertaking on behalf of the Surety Business;

(8) signing, executing or issuing bonds by a person or entity which is not registered as an agent of the Surety Business and/or for which there is no satisfactory proof of an agency relationship with the Surety Business;

(9) executing a bond without the appropriate counter signature by a licensed and/or authorized agent at time of issue;

(10) failing to account for or pay any premiums held in a fiduciary capacity;

(11) misstating or misrepresenting any material fact in the initial petition or any subsequent petitions, required by this rule, or in any of the statements, information or certifications required by this rule;

(12) failing to preserve, and to retain separately, any collateral obtained as security on any bond;

(13) failing to return collateral taken as security on any bond to the depositor of such collateral, or the depositor's designee, within ten (10) business days of having been notified of the exoneration of the bond and upon payment of all fees owed to the Surety Business, whichever is later;

(14) offering or providing any consideration or gratuity to any person employed by, or incarcerated in, a jail facility, any person who has the power to arrest or to hold any person in custody, or to any court officers and attorneys to obtain or secure business;

(15) failing to deliver to the defendant, and any person providing collateral on the defendant's behalf, prior to the time the defendant is released from jail, a one-page disclosure form which, at a minimum, must include:

- (A) the amount of the bail;
- (B) the amount of the surety's fee, including bail bond premium, preparation fees, and credit transaction fees;
- (C) the collateral that will be held by the surety;
- (D) the defendant's obligations to the surety and the court;
- (E) the conditions upon which the bond may be revoked;
- (F) any additional charges or interest that may accrue;
- (G) any co-signors or indemnitors that will be required; and
- (H) the conditions under which the bond may be exonerated and the collateral returned;

(16) failing to provide to the Clerk of Judicial Records, Criminal Division the fully executed one-page disclosure form required by subsection (e)(15) of this rule at the time bond is posted;

(17) charging excessive fees or other unauthorized charges;

(18) requiring unreasonable collateral as security;

(19) failing to provide an itemized statement of any and all expenses deducted from collateral, if any;

(20) advising, requiring or suggesting that, as a condition of posting a bail bond by a surety business, a defendant engage the services of a particular law firm or attorney;

(21) preparing or issuing a fraudulent or forged bail bond, power of attorney or other document;

(22) signing, executing, issuing or posting bail bonds by an unlicensed person;

(23) knowingly violating, advising, encouraging, aiding, abetting or assisting the violation of any applicable law, statute, local rule or rule of court;

(24) soliciting or procuring sexual favors as a condition of obtaining, maintaining or exonerating a bail bond, regardless of the identity of the person who performs such favors;

(25) providing legal advice or a legal opinion in any form;

(26) failing to enforce bail conditions;

(27) holding themselves out by their manner of dress as being a public official; and

(28) engaging in verbal or other abusive behavior and/or unprofessional conduct, including but not limited to the use of profanity, directed toward a County employee.

(f) Any violation of or failure to comply with the rules set forth herein may, upon petition by the Department of Law and after hearing thereon, result in the revocation by the Court of Common Pleas of Lehigh County of the bail posting privileges of a Surety Business or Corporate Surety Agency Agent including but not limited to approval granted under 531.2(c) herein.

Rule 536.1. Forfeitures and Bail Pieces.

(a) *Forfeitures.*

(1) If a bail bond is ordered to be forfeited pursuant to Pa.R.Crim.P. 536, execution of the order shall be delayed until ninety (90) days from the date of the filing of the forfeiture order.

(2) If a defendant whose bail has been ordered forfeited surrenders within ninety (90) days of the date of the entry of the order, the Judge or a designee may set aside the forfeiture order and either reinstate bail or set a new bail without the necessity of the filing of a petition as hereinafter provided.

(3) Unless the forfeiture order has been set aside as provided for in subsection (2), in order for a surety to have the forfeiture order set aside or remitted in whole or in part, the party seeking remission, set aside or exoneration shall present a petition to the Judge, file the petition with the Clerk of Judicial Records, Criminal Division, and serve a copy thereof upon the Department of Law. The petition shall set forth in detail the reasons for seeking the set aside, remission or exoneration. In order to facilitate the assessment and investigation of petitions requesting remittance, the surety is required to delineate within the petition the following:

(A) A recitation of the history of the case including the charges, the date the bond was set, the amount of the bond, and the name and district of the issuing authority;

(B) The date of forfeiture and nature of the proceeding at which forfeiture occurred;

(C) A statement establishing the fact that the defendant was apprehended including the date of apprehension and the agency responsible for the apprehension;

(D) A detailed summary of all efforts by the petitioner to apprehend the defendant including the name, phone number and address of all agents hired or assigned to effectuate the apprehension, and all times, dates, and locations searched;

(E) A declaration that the apprehension or return of the defendant was effected by the efforts of the surety or that those efforts at least had a substantial impact on the defendant's apprehension; and

(F) A clear and specific factual recitation in support of the above declaration.

(4) A Surety Business or Corporate Surety Agency Agent which files with the Court of Common Pleas of Lehigh County a petition for bail relief, including but not limited to a petition to vacate bail forfeiture or a petition to exonerate surety, shall be responsible for the payment of court costs and/or filing fees as determined by the Clerk of Judicial Records, Criminal Division and may be amended from time to time.

(b) *Bail Pieces.* After a bail piece is issued pursuant to Pa.R.Crim.P. 536 and the defendant is apprehended by or on behalf of the surety, the defendant must be brought before the Judge or a designee in accordance with Pa.R.Crim.P. 150. Bail pieces shall not be utilized to exonerate the surety.

[Pa.B. Doc. No. 14-1303. Filed for public inspection June 20, 2014, 9:00 a.m.]