

## 2005 Membership:

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## Staff:

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Jeffery M. Wasileski, Esq., *Staff Counsel*  
Suzanne M. Creavey, *Office Manager*

\* Term expired 6-30-05

\*\* Appointed vice chair effective 6-30-05

+ Appointed 7-20-05

## Legal Authorization:

Pa. Constitution, Article V, § 10(c)  
42 Pa. C.S., § 1722

## About the Committee:

The Criminal Procedural Rules Committee is an advisory arm to the Supreme Court, serving to assist the Court in achieving its constitutional mandate to prescribe general rules governing criminal practice and procedure throughout Pennsylvania.

**Criminal**

**Procedural**

**Rules**

**Committee**

5035 Ritter Road, Suite 100  
Mechanicsburg, PA 17055  
(717) 795-2100  
e-mail [criminal.rules@pacourts.us](mailto:criminal.rules@pacourts.us)  
[www.courts.state.pa.us/  
Index/SupCtCmtes/  
CrimRulesCmte/  
Indexcrim.asp](http://www.courts.state.pa.us/Index/SupCtCmtes/CrimRulesCmte/Indexcrim.asp)

## Reports

Prior to completing a rule proposal for submission to the Supreme Court, the committee publishes an explanatory report, called simply "Report," which describes the committee's proposal and gives members of the bench, bar, and public an opportunity to comment on the proposal. The reports are published in the *Pennsylvania Bulletin*, the *Atlantic Reporter 2d* (*Pennsylvania Reporter Series*) and various local bar publications. In some cases the committee also distributes the report directly to organizations within the criminal justice system upon which the proposal may impact.

All comments are considered and, when appropriate, a proposal is modified before final submission to the Court. (Note: Some reports are submitted to the Court without publication, pursuant to Pa.R.J.A. 103(a)(3), this in the interest of justice, because exigent circumstances existed that warranted prompt action, or because the proposed changes are technical or perfunctory in nature.)

If a recommendation is adopted, the committee prepares a final explanatory report for publication with the Court's order. These "Final Reports" are useful sources of information about the rule changes and the committee's considerations in developing the proposal for the rule changes.

In addition to reports, the committee prepares, as a public service, a "Calendar of the Effective Dates," which lists recently adopted criminal procedural rule changes and their effective dates. These calendars are published in various legal journals and newsletters.

## 2005 Activities

The committee held five full-committee meetings and several subcommittee meetings in 2005. The full-committee meetings were held in Philadelphia, Fayette County, Gettysburg, State College and Bethlehem.

In 2005 the committee continued its work on the following:

- development and refinement of procedures for the use of advanced communication technology (ACT) in criminal cases
- changes necessitated by the Common Pleas Case Management System (CPCMS), the statewide automation of the criminal division of the Common Pleas Courts.
- study of jury trial innovations that would benefit Pennsylvania's criminal justice system
- review of the rules affecting proceedings before the minor judiciary, specifically
  - summary guilty pleas
  - requirements for the continuous availability of issuing authorities
  - procedures when a defendant fails to appear for a preliminary hearing
  - special procedures necessary for the operation of the Philadelphia Municipal Court and the Philadelphia Traffic Court.
- monitoring local rules, particularly issues raised by CPCMS staff that are arising as each judicial district is brought on-line.

The committee also addressed several other areas of criminal practice and procedure, including right to counsel, bail, arrest and bench warrants, and search warrants.

The committee communicated regularly with the Court's other advisory committees and the Administrative Office of Pennsylvania Courts concerning various procedural matters in an ongoing effort to achieve uniformity and consistency in interrelated procedural and administrative matters. In 2005 it worked with the Minor Court Rules Committee on uniform procedures for the issuance of subpoenas, with the Appellate Court Procedural Rules Committee on issues concerning the time for appeal in criminal cases, and with the Civil Procedural

Rules Committee on uniform procedures for the format of documents.

## 2005 Committee Action

The Supreme Court adopted 16 committee recommendations for rule changes in 2005. A number of other recommendations remained pending with the Court. They are all described below and are summarized in the Status of Recommendations chart beginning on page 54.

### *Proposals Adopted by the Supreme Court*

Note: The Final Reports for any of these proposals can also be found on the committee's Web page at [www.courts.state.pa.us/Index/SupCtCmtes/CrimRulesCmte/dockcrm.asp](http://www.courts.state.pa.us/Index/SupCtCmtes/CrimRulesCmte/dockcrm.asp).

**Recommendation No. 6, Criminal Rules 2001:** Amendments to Rule 909 to clarify the provisions of Rule 909(A) (**Stays**) and to the comment to Rule 909 in view of the Court's holding in *Commonwealth v. Morris*, 565 Pa. 1, 771 A.2d 721 (2001), and 573 Pa. 157, 822 A.2d 684 (2003). Adopted 10-7-05, effective 2-1-06. See Final Report at 35 Pa.B. 5772 (October 22, 2005), and 882 A.2d Advance Sheets (*Pennsylvania Reporter Series*).

**Recommendation No. 10, Criminal Rules 2003:** Changes to the Rules of Criminal Procedure necessitated by the **proposed new rules of juvenile procedure**. Adopted 4-1-05, effective 10-1-05. See Final Report at 35 Pa.B. 2213 (April 16, 2005), and 869 A.2d Advance Sheets (*Pennsylvania Reporter Series*).

**Recommendation No. 1, Criminal Rules 2004:** New Rule 644 **permitting jurors in criminal trials to take notes**, with a 3-year trial period for study. See Final Report at 35 Pa.B. 3919 (July 16, 2005), and 876 A.2d Advance Sheets (*Pennsylvania Reporter Series*).

**Recommendation No. 2, Criminal Rules 2004:** Amendments to Rule 720 (Post-sentence

Procedures; Appeal) that address *Commonwealth v. Grant* concerning claims of **counsel's ineffectiveness** in a post-sentence motion and clarify in the comment the procedures for raising **after-discovered evidence**. Adopted 6-8-05, effective 8-1-05. See Final Report at 35 Pa.B. 3545 (June 25, 2005), and 873-874 A.2d Advance Sheets (*Pennsylvania Reporter Series*).

**Recommendation No. 3, Criminal Rules 2004:** Amendments to Rule 632 (**Juror Information Questionnaires**) that separate question one into two questions to eliminate potential confusion. Adopted 5-2-05, effective 8-1-05. See Final Report at 35 Pa.B. 2870 (May 14, 2005), and 871 A.2d Advance Sheets (*Pennsylvania Reporter Series*).

**Recommendation No. 7, Criminal Rules 2004:** Amendments to Rule 705 to clarify the procedures concerning **concurrent sentences and credit for time served**. Adopted 6-4-05, effective 8-1-05. See Final Report at 35 Pa.B. 3218 (June 4, 2005), and 872 A.2d Advance Sheets (*Pennsylvania Reporter Series*).

**Recommendation No. 8, Criminal Rules 2004:** Amendments to Rules 120 and 122 providing that the filing of the order **appointing counsel** enters appointed counsel's appearance and clarifying the procedures concerning the entry of appearance, withdrawal of appearance and duration of counsel in Rule 120. Adopted 4-28-05, effective 8-1-05. See Final Report at 35 Pa.B. 2859 (May 14, 2005), and 871 A.2d Advance Sheets (*Pennsylvania Reporter Series*).

**Recommendation No. 1, Criminal Rules 2005:** Amendment to Rule 103 **changing "district justice" to "magisterial district judge"** in the definition of "issuing authority" and cross-referencing the related statute and court order. Adopted 2-1-05, effective immediately. See Final Report at 35 Pa.B. 1333 (February 19, 2005), and 865 A.2d Advance Sheets (*Pennsylvania Reporter Series*).

**Recommendation No. 2, Criminal Rules 2005:** New Rule 117 and numerous correlative rule

changes clarifying the **coverage by issuing authorities and other judicial officials** that must be provided in each judicial district. Adopted 6-30-05, effective 8-1-06. See Final Report at 35 *Pa.B.* 3911 (July 16, 2005), and 876 *A.2d* Advance Sheets (*Pennsylvania Reporter Series*).

**Recommendation No. 5, Criminal Rules 2005:** New Rules 1030, 1031, 1032, 1033, 1034, 1035 and 1036 and correlative amendments governing **summary case proceedings in Philadelphia Traffic Court**. Adopted 9-9-05, effective 2-1-06. See Final Report at 35 *Pa.B.* 5242 (September 24, 2005), and 879 *A.2d* Advance Sheets (*Pennsylvania Reporter Series*).

**Recommendation No. 6, Criminal Rules 2005:** New Rule 1002 and amendments to Rules 455 and 1003 that clarify the procedures for handling **summary cases in Philadelphia Municipal Court**. See Final Report at 35 *Pa.B.* 4918 (September 3, 2005), and 878-879 *A.2d* Advance Sheets (*Pennsylvania Reporter Series*).

**Recommendation No. 7, Criminal Rules 2005:** Changes to Rule 227 to clarify **who may administer the oath to grand jury witnesses**. Adopted 9-30-05, effective 2-1-06. See Final Report at 35 *Pa.B.* 5679 (October 15, 2005), and 880-881 *A.2d* Advance Sheets (*Pennsylvania Reporter Series*).

**Recommendation No. 9, Criminal Rules 2005:** Changes to Rules 514 and 517 to **replace** the archaic term "**alias warrant**" with more accurate descriptive language. Adopted 10-19-05, effective 2-1-06. See Final Report at 35 *Pa.B.* 6090 (November 5, 2005), and 883 *A.2d* Advance Sheets (*Pennsylvania Reporter Series*).

**Recommendation No. 10, Criminal Rules 2005:** Changes to Rule 550 confirming the limitation on magisterial district judges to **accept guilty pleas in misdemeanor cases** when authorized by law. Adopted 10-9-05, effective 2-1-06. See Final Report at 35 *Pa.B.* 6896 (December 24, 2005), and 886 *A.2d* Advance Sheets (*Pennsylvania Reporter Series*).

**Recommendation No. 11, Criminal Rules 2005:** Changes to Rules 203, 205 and 206 to provide the **procedures for anticipatory search warrants**. Adopted 10-19-05, effective 2-1-06. See Final Report at 35 *Pa.B.* 6088 (November 5, 2005), and 883 *A.2d* Advance Sheets (*Pennsylvania Reporter Series*).

**Recommendation No. 13, Criminal Rules 2005:** New Rule 150 and correlative changes to Rules 431, 536 and 543 establishing procedures when **bench warrants** are executed and establishing time limits on detaining the individual on a bench warrant. Adopted 12-30-05, effective 8-1-06. See Final Report at 36 *Pa.B.* 184 (January 14, 2006), and 888 *A.2d* Advance Sheets (*Pennsylvania Reporter Series*).

#### *Proposals Pending with the Supreme Court*

**Recommendation No. 4, Criminal Rules 2004:** Proposed revisions of the comments to Rules 502, 503 and 504 clarifying that the **complaint may be electronically prepared, verified and transmitted**. (The Court put this proposal on hold 8-16-04 at the request of the Magisterial District Judge System and CPCMS staff until the technology is in place to accommodate this change.)

**Recommendation No. 4, Criminal Rules 2005:** Proposed new Rules 567 (Notice of Alibi Defense), 568 (Notice of Defense of Insanity or Mental Infirmity; Notice of Expert Evidence of a Mental Condition), and 569 (Examination of Defendant by Mental Health Expert) providing the **procedures for notice of defenses and examination of a defendant by mental health expert(s)**.

Note: March 14, 2005, the committee withdrew two recommendations:

- Recommendation No. 3, Criminal Rules 2002 that proposed new Rule 567 and correlative changes to Rules 573 and 1101 establishing procedures for the examination of a defendant by a mental health expert

- Recommendation No. 4, Criminal Rules 2002 that proposed new Rules 568 and 569 creating separate rules for the notice of alibi and insanity provisions from Rule 573.

These recommendations were replaced by Recommendation No. 4, Criminal Rules 2005.

**Recommendation No. 8, Criminal Rules 2005:** Proposed new Rule 589; amendments to Rules 542, 543, 546, 551, 622 and 648; and correlative changes to clarify the procedures that require the **summary offense** joined with misdemeanor or felony charges to accompany the misdemeanor or felony charges as part of the court case if held for court. The Court of Common Pleas must dispose of the summary offense, except in certain circumstances outlined in the rules.

**Recommendation No. 12, Criminal Rules 2005:** Proposed changes to Rules 644, 646 and 647 providing procedures for the use of **juror binders** in all criminal cases.

## Looking Ahead to 2006

The committee plans to continue its efforts on the following:

- working with the Common Pleas Court automation project, coordinating rule proposals with the automation of the criminal divisions of the Common Pleas Courts
- monitoring the application of new Rule 644 that permits juror note-taking in criminal cases during the three-year trial period the Court has imposed
- continuing to examine bail procedures and local rules procedures
- monitoring criminal practice and procedure and the criminal rules in general. **AOPC**

| <b>Status of Recommendations</b> |   |                                       |
|----------------------------------|---|---------------------------------------|
| <b>Recommendation</b>            | <b>Subject</b>  | <b>Status</b>                         |
| 6, 2001                          | Amendments to Rule 909 adding cross-references to <i>Commonwealth v. Morris</i>   | Adopted 10-7-05, effective 2-1-06     |
| 3, 2002                          | New rule 567 and correlative changes to Rules 573 and 1101 establishing procedures for examination of a defendant by a mental health expert | Withdrawn 3-14-05                     |
| 4, 2002                          | New Rules 568 and 569 creating separate rules for the notice of alibi and insanity provisions from Rule 573                                 | Withdrawn 3-14-05                     |
| 10, 2003                         | Amendments to Rules of Criminal Procedure correlative to the new Rules of Juvenile Court Procedure  | Adopted 4-1-05, effective 10-1-05     |
| 1, 2004                          | New Rule 644 permitting jurors in criminal trials to take notes   | Adopted 6-30-05, effective 8-1-05     |
| 2, 2004                          | Amendments to Rule 720 (Post-sentence Procedures; Appeal) that address <i>Commonwealth v. Grant</i>   | Adopted 6-8-05, effective 8-1-05      |
| 3, 2004                          | Amendment to Rule 632 (Juror Information Questionnaires) to separate question one into two questions  | Adopted 5-2-05, effective 8-1-05      |
| 4, 2004                          | Revisions of comments to Rules 502, 503 and 504, clarifying that complaint may be electronically prepared, verified and transmitted         | Put on hold by Court 8-16-04          |
| 7, 2004                          | Amendments to Rule 705 to clarify procedures concerning concurrent sentences and credit for time served                                     | Adopted 6-4-05, effective 8-1-05      |
| 8, 2004                          | Amendments to Rules 120 and 122 regarding appointing counsel and appearance   | Adopted 4-28-05, effective 8-1-05     |
| 1, 2005                          | Amendment to Rule 103 changing "district justice" to "magisterial district judge"   | Adopted 2-1-05, effective immediately |

continued...

**Table 3.7.1**

**Status of Recommendations, continued**

| <b>Recommendation</b> | <b>Subject</b>   | <b>Status</b>                         |
|-----------------------|--|---------------------------------------|
| 2, 2005               | New Rule 117 and correlative rule changes clarifying coverage by issuing authorities and other judicial officials that must be provided  | Adopted 6-30-05, effective 8-1-06     |
| 4, 2005               | New rules 567, 568 and 569 and correlative amendments providing procedure for notice of defenses and examination of defendant by mental health expert(s)                                 | Submitted 3-21-05; pending with Court |
| 5, 2005               | New Rules 1030-1036 and correlative amendments governing summary case proceedings in Philadelphia Traffic Court  | Adopted 9-9-05, effective 2-1-06      |
| 6, 2005               | New Rule 1002 and amendments to Rules 455 and 1003 clarifying procedures for summary cases in Philadelphia Municipal Court   | Adopted 8-15-05, effective, 2-1-06    |
| 7, 2005               | Changes to Rule 227 to clarify who may administer the oath to grand jury witnesses   | Adopted 9-30-05, effective 2-1-06     |
| 8, 2005               | New Rule 589; amendments to Rules 542, 543, 546, 551, 622 and 648; and correlative changes to clarify procedures pertaining to summary offense joined with misdemeanor or felony charges | Submitted 7-26-05; pending with Court |
| 9, 2005               | Changes to Rules 514 and 517 to replace the term "alias warrant"   | Adopted 10-19-05, effective 2-1-06    |
| 10, 2005              | Changes to Rule 550 confirming the limitation on magisterial district judges accepting guilty pleas in misdemeanor cases when authorized by law  | Adopted 12-9-05, effective 2-1-06     |
| 11, 2005              | Changes to Rules 203, 205, and 206 to provide procedures for anticipatory search warrants  | Adopted 10-19-05, effective 2-1-06    |
| 12, 2005              | Proposed changes to Rules 644, 646 and 647 providing procedures for use of juror binders in all criminal cases   | Submitted 8-29-05; pending with Court |
| 13, 2005              | New Rule 150 and correlative changes to Rules 431, 536, and 543 establishing bench warrant procedures  | Adopted 12-30-05, effective 8-1-06    |

Table 3.7.1, cont'd.