

2005 Membership:

Honorable Richard A. Lewis, *Chair*
Patrick J. O'Connor, Esq., *Vice Chair*
David F. Binder, Esq.
Syndi L. Guido, Esq.
Professor Sandra D. Jordan
Michael J. Manzo, Esq.
Professor Leonard Packel, *Official Reporter*
Neil R. Rosen, Esq.
Bernard W. Smalley, Esq.
Lee C. Swartz, Esq.

Staff:

Richard L. Kearns, Esq., *Staff Counsel*
Terri L. Metil, *Administrative Assistant*

Legal Authorization:

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

About the Committee:

The Committee on Rules of Evidence was created by the Supreme Court of Pennsylvania as an advisory body to assist the Court in its constitutional and statutory responsibility to prescribe general rules governing court proceedings in Pennsylvania's Unified Judicial System. The committee studies and makes recommendations to the Court about matters affecting evidence law in the Commonwealth. It monitors the practical application of the new rules as well as developments in evidence law in Pennsylvania and in other jurisdictions as reflected in case law and statutory changes that have occurred since the rules' adoption.

Members are appointed to three-year terms, and each member may serve two consecutive terms.

Committee on Rules of Evidence

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Mechanicsburg, PA 17055
(717) 795-2100
[www.courts.state.pa.us/
Index/SupCtCmtes/
evidence/indexevid.asp](http://www.courts.state.pa.us/Index/SupCtCmtes/evidence/indexevid.asp)

Publication

Prior to completing a rule proposal for submission to the Supreme Court, the committee publishes an explanatory "Report" describing the committee's proposal. This process 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*), in various local bar publications and also on the Unified Judicial System's home page at www.courts.state.pa.us, under Supreme Court Committees. (Note: Some proposals are submitted to the Court without publication, pursuant to Pa.R.J.A. 103(a)(3), in the interests of justice, because exigent circumstances exist that warrant prompt action or because the proposed changes are technical or perfunctory in nature.)

The committee considers all publication comments and, when appropriate, will modify a proposal before a final recommendation is submitted to the Court.

When the Court adopts a recommendation, the committee prepares a "Final Report" explaining the recommendation, including any post-publication modifications. These "Final Reports," which are published with the Court's orders, are useful sources of information about the rule changes and the committee's considerations in developing the proposal.

2005 Activities

The committee met three times in 2005.

Members continued in 2005 to participate in various programs and seminars about the rules. These sessions provide the members with excellent opportunities to answer questions and to gather input about the rules.

The committee also continued its work with members of the legislature concerning the interplay between the Rules of Evidence and existing evidentiary statutes.

2005 Committee Action

Amendment to Pa.R.E. 601 and Revision of Comment to eliminate Pa.R.E. 601(b) (Disqualification [from serving as a witness] for Specific Defects) from the rule and to revise the comment accordingly. The Court did not act upon this recommendation, following the request of the committee to place the recommendation on hold.

Revision of Comment to Pa.R.E. 409 to reflect changes in Pa.R.E. 408 (Compromise and offers to compromise). Promulgated 12-30-05, effective 2-1-06.

Revision of Comment to Pa.R.E. 101 to reflect the decision of the Supreme Court in *Gibson v. W.C.A.B.*, 861 A.2d 938 (Pa. 2004) regarding applying Pa.R.E. 601, 701 and 702 to administrative agency proceedings. Promulgated 12-30-05, effective 2-1-06.

Amendment to Pa.R.E. 404 and Revision of Comment to

- give the prosecution the right to counter defense evidence of a character trait of the victim
- require that the prosecution provide reasonable notice only of the "general nature" of other crimes it plans to enter into evidence when the court excuses pretrial notice on good cause shown.

Pending with the Court.

Looking Ahead to 2006

The committee plans to continue to monitor the Rules of Evidence and case law interpreting the rules and evidence law as members of the bench and bar become more familiar with using the rules. It will also continue to work with members of the legislature on the statutory/rule project begun in 1998.

AOPC