

**Criminal**

**Procedural**

**Rules**

**Committee**

**2000 Membership**

Honorable J. Michael Eakin, *Chair*

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**Legal Authorization:**

Pa. Constitution, Article V, § 10(c)

42 Pa. C.S., § 1722

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## History/Background

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.

The committee's work includes:

- monitoring recent developments in criminal procedure in Pennsylvania and in other jurisdictions to identify areas in which the criminal rules need to be amended, revised, clarified, streamlined or simplified
- reviewing and responding to the numerous questions raised by judges, lawyers, and court personnel; the public; and agencies within the criminal justice system
- reviewing Pennsylvania appellate court cases and Pennsylvania legislation, earmarking those decisional or statutory law changes which affect the criminal process and necessitate amendments to the rules or other action by the Court
- monitoring all local criminal rules as required by Rules of Criminal Procedure 6.

Prior to completing a rule proposal for submission to the Supreme Court, the committee publishes an explanatory "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. Published in the *Pennsylvania Bulletin* and the *Atlantic Reporter 2d* (*Pennsylvania Reporter Series*), 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 to provide easy access to the effective dates of criminal rule changes.

## Web Site

The Criminal Procedural Rules Committee publishes its rule proposals and explanatory "Reports," as well as the Supreme Court's orders promulgating criminal rule changes, the text of the rule changes, and the committee's "Final Reports" explaining the rule changes on the Unified Judicial System home page. These publications may be found under Supreme Court Committees at [www.courts.state.pa.us](http://www.courts.state.pa.us).

## Membership and Staff

Committee membership is appointed by the Supreme Court. Each member's term is three years in length and members may serve a maximum of two full terms. In 2000 membership included a Superior Court judge, four Common Pleas Court judges, the chief disciplinary

counsel for the Disciplinary Board of the Supreme Court, six prosecutors, one assistant public defender, two attorneys in private practice and one district court administrator.

The committee has a staff of three: two attorneys and an office manager. It maintains its office in Mechanicsburg at the Administrative Office's Central Site.

## 2000 Activities

The committee held five two-day full-committee meetings and several subcommittee meetings in 2000. The meetings were held in Bethlehem, Hershey, Philadelphia and Wilkes-Barre.

A good deal of the committee's work in 2000 involved the development of procedures for the use of advanced communication technology in criminal cases, in particular for arrest and search warrants, preliminary arraignments and arraignments, and specific issues related to post-conviction collateral proceedings, including time limits on the disposition of cases and appointment of counsel in death penalty cases.

In addition, the committee continued with its ongoing review of the rules affecting both proceedings before the minor judiciary, in summary cases and in court cases, and local rules. It also responded to specific inquiries from the Supreme Court as well as issues that arose in case law. The committee addressed several other areas of criminal practice and procedure, including jurisdiction and venue, and trial and jury procedures.

The committee communicated regularly with the Administrative Office and with the Supreme Court's other committees concerning various procedural matters in an ongoing effort to achieve uniformity and consistency among interrelated procedural and administrative matters.

The committee continued in 2000 to make presentations to the bench, the bar and others involved in the criminal justice system regarding recent changes in Pennsylvania's criminal procedures. At these presentations the committee receives valuable input concerning Pennsylvania's criminal practice.

## 2000 Committee Action

The Supreme Court adopted nine committee recommendations for rule changes in 2000. A number of other recommendations remained pending with the Court. These are described below. A chart indicating the status of the proposals and recommendations pending in 2000 can be found beginning on page 64.

### *Proposals Adopted by the Supreme Court*

**Recommendation No. 3, Criminal Rules 1998:** New Rule 300; amendments to Rules 21 and 1100, and revision of the Comments to Rules 25 and 1100 (renumbered Rules 555, 130, 535, 134 and 600, respectively, as part of the renumbering and reorganization of the rules adopted March 1, 2000, effective April 1, 2001.) to address *Commonwealth v. McPhail*, providing uniform procedures for the **transfer of cases** when multiple charges arise from a single criminal episode, and the charges are filed in different judicial or magisterial districts. Adopted April 20, 2000, effective July 1, 2000. (See Final Report at 30 *Pa.B.* 2219 (May 6, 2000) and 749 A.2d No. 3, May 26, 2000, Advance Sheets (*Pennsylvania Reporter Series*).)

**Recommendation No. 8, Criminal Rules 1998:** Amendments to Rules 53 and 86 (renumbered Rules 403 and 460, respectively, as part of the renumbering and reorganization of the rules adopted March 1, 2000, effective April 1, 2001.) clarifying that a defendant may appeal for a trial *de novo* following a guilty plea in a **summary case**. Adopted March 3, 2000, effective July 1, 2000. (See Final Report at 30 *Pa.B.* 1956)

(March 18, 2000) and 746 A.2d No. 4, 747 A.2d No. 1, April 14, 2000, Advance Sheets (*Pennsylvania Reporter Series*.)

**Recommendation No. 1, Criminal Rules 1999:** Amendment to Rule 1504 and correlative revisions of the Comments to Rules 1502, 1503 and 1506 (renumbered Rules 904, 902, 903 and 906, respectively, as part of the renumbering and reorganization of the rules adopted March 1, 2000, effective April 1, 2001.) providing for the immediate appointment of counsel in **death penalty cases** following the conclusion of direct appeal. Adopted January 21, 2000, effective July 1, 2000. (See Final Report at 30 *Pa.B.* 624 (February 5, 2000) and 744 A.2d No. 2, March 3, 2000, Advance Sheets (*Pennsylvania Reporter Series*.)

**Recommendation No. 4, Criminal Rules 1999:** Amendment of Rule 303 (renumbered Rule 571 as part of the renumbering and reorganization of the rules adopted March 1, 2000, effective April 1, 2001.) deleting the local option concerning permitting the defendant to waive his or her presence at the **arraignment** and making it the defendant's option. Adopted November 17, 2000, effective January 1, 2001. (See Final Report at 30 *Pa.B.* 6184 (December 2, 2000) and 761 A.2d No. 4, 762 A.2d No. 1, December 29, 2000, Advance Sheets (*Pennsylvania Reporter Series*.)

**Recommendation No. 9, Criminal Rules 1999:** Amendments to Rule 1117 (renumbered Rule 602 as part of the renumbering and reorganization of the rules adopted March 1, 2000, effective April 1, 2001.) clarifying that the **defendant's absence** without cause does not preclude proceeding with the trial, including the imposition of sentence, and addressing in the Comment the requirements for the waiver of a defendant's presence at trial. Adopted December 8, 2000, effective January 1, 2001. (See Final Report at 30 *Pa.B.* 6546 (December 23, 2000) and 763 A.2d No. 3, 764 A.2d No. 1, February 2, 2001, Advance Sheets (*Pennsylvania Reporter Series*.)

**Recommendation No. 11, Criminal Rules 1999: Reorganization and renumbering of the rules** in a more logical fashion that more accurately reflects the movement of a criminal case through the criminal justice system, thereby making the rules more "user friendly" and easier to follow to the conclusion of a criminal proceeding. Adopted March 1, 2000, effective April 1, 2001. (See Final Report at 30 *Pa.B.* 1478 (March 18, 2000) and 746 A.2d No. 4, 747 A.2d No.1, April 14, 2000, Advance Sheets (*Pennsylvania Reporter Series*.)

**Recommendation No. 15, Criminal Rules 1999:** Amendment to Rule 1104 (renumbered Rule 630 as part of the renumbering and reorganization of the rules adopted March 1, 2000, effective April 1, 2001.) clarifying the procedures concerning access to **juror qualification forms**. Adopted March 28, 2000, effective July 1, 2000. (See Final Report at 30 *Pa.B.* 1956 (April 15, 2000) and 749 A.2d No. 3, May 26, 2000, Advance Sheets (*Pennsylvania Reporter Series*.)

**Recommendation No. 2, Criminal Rules 2000:** Amendments to Rule 6 (renumbered Rule 105 as part of the renumbering and reorganization of the rules adopted March 1, 2000, effective April 1, 2001.) (1) clarifying the definition of **local rules**, (2) emphasizing the procedures concerning the implementation of local rules, and (3) establishing procedures for the enforcement of local rules with a limitation on the sanctions for non-compliance. Adopted October 24, 2000, effective January 1, 2001. (See Final Report at 30 *Pa.B.* 5842 (November 11, 2000) and 760 A.2d No. 4, December 1, 2000, Advance Sheets (*Pennsylvania Reporter Series*.)

**Recommendation No. 3, Criminal Rules 2000:** Amendment to Rule 21 (renumbered Rule 130 as part of the renumbering and reorganization of the rules adopted March 1, 2000, effective April 1, 2001.) **clarifying that the rule applies to both summary and court cases**, including those summary cases in which multiple offenses are part of a single criminal episode occurring in

more than one judicial district. Adopted September 19, 2000, effective January 1, 2001. (See Final Report at 30 *Pa.B.* 5135 (October 7, 2000) and 759 A.2d No. 2, October 27, 2000, Advance Sheets (*Pennsylvania Reporter Series*.)

### *Proposals Pending with the Supreme Court*

A number of committee recommendations for criminal rule changes remained pending with the Supreme Court at the close of 2000. These are described below and are also summarized in the Status of Recommendations chart following this report.

**Recommendation No. 14, Criminal Rules 1999:** Proposed amendments to Rule 1500 (renumbered Rule 900 as part of the renumbering and reorganization of the rules adopted March 1, 2000, effective April 1, 2001,) providing in **capital cases** for notice of the information concerning the PCRA and the procedures under Chapter 1500 of the rules.

**Recommendation No. 1 Criminal Rules 2000:** Proposed amendments to Rules 1502 and 1504 and correlative revision of the Comment to Rule 302 (renumbered Rules 902, 904 and 120, respectively, as part of the renumbering and reorganization of the rules adopted March 1, 2000, effective April 1, 2001,) concerning verification of counsel and entry of appearance in **PCRA cases**.


**Recommendation No. 4 Criminal Rules 2000:** Proposed amendments to Rules 316 and 1504 (renumbered Rules 122 and 904, respectively,

as part of the renumbering and reorganization of the rules adopted March 1, 2000, effective April 1, 2001,) clarifying that **appointed counsel** remains in the case through all avenues of direct appeal, including the Supreme Court.

### **Looking Ahead to 2001**

The committee plans to continue its study of the use of advanced communication technology in criminal proceedings. In addition, the committee is working with the Court's Common Pleas Court automation project, coordinating rule proposals with the automation of the criminal divisions of the Common Pleas Courts. The committee also plans to continue examining local rule procedures and working on the rules affecting the minor judiciary, as well as monitoring criminal practice and procedure and the criminal rules in general.

### **Contact Person**

Anyone wanting additional information about the Criminal Procedural Rules Committee or having questions about the criminal procedural rules may contact the committee through its chief staff counsel, Anne T. Panfil, Esq., at (717) 795-2100 or writing in care of the committee to P.O. Box 1325; Doylestown, PA 18901. The committee may also be contacted at [criminal.rules@supreme.court.state.pa.us](mailto:criminal.rules@supreme.court.state.pa.us). 

### Status of Recommendations

Note: The number in parentheses indicates the new number assigned to the rule as part of the renumbering and reorganization of the criminal rules adopted by the Court on March 1, 2000, effective April 1, 2001.

Recommendation	Subject	Status
3, 1998	New Rule 300 (555), amendments to Rules 21 (130) and 4015 (535), revision of Comments to Rules 25 (134) and 1100 (600) regarding transfer of cases	Adopted 4-20-00, effective 7-1-00
8, 1998	Amendments to Rules 53 (403) and 86 (460) to clarify that a defendant may appeal for a trial <i>de novo</i> following a guilty plea in a summary case	Adopted 3-3-00, effective 7-1-00
1, 1999	Amendment to Rule 1504 (904) and correlative revisions to the Comments to Rules 1502 (902), 1503 (903) and 1506 (906) regarding appointment of counsel in death penalty cases	Adopted 1-21-00, effective 7-1-00
4, 1999	Amendment to Rule 303 (571) regarding a defendant's presence at arraignment	Adopted 11-17-00, effective 1-1-01
9, 1999	Revision to Rule 1117 (602) regarding a defendant's presence at trial	Adopted 12-8-00, effective 1-1-01
11, 1999	Reorganization and renumbering of criminal rules	Adopted 3-1-00, effective 4-1-01
14, 1999	Amendments to Rule 1500 (900) providing in capital cases for notice of the information concerning the PCRA and procedures under Chapter 1500 of the rules	Submitted 10-13-99, remanded 10-24-00; to be resubmitted early 2001
15, 1999	Amendment to Rule 1104 (630) concerning access to juror qualification forms	Adopted 3-28-00, effective 7-1-00
1, 2000	Amendments to Rules 1502 (902) and 1504 (904), revision of Comment to Rule 302 (120) concerning verification of counsel and entry of appearance in PCRA cases	Submitted 7-17-00; pending before Court

continued...

Table 3.7.1

Status of Recommendations, continued		
Recommendation	Subject	Status
2, 2000	Amendments to Rule 6 (Rule 105) concerning local rules	Adopted 10-24-00, effective 1-1-01
3, 2000	Amendment to Rule 21 (Rule 130), clarifying that the rule applies to both summary and court cases	Adopted 9-19-00, effective 1-1-01
4, 2000	Amendments to Rules 316 (122) and 1504 (904), clarifying that appointed counsel remains in the case through all avenues of direct appeal, including the Supreme Court	Submitted 12-28-00; pending before Court

Table 3.7.1, cont'd.