

**Committee  
on  
Rules of  
Evidence**

**1999 Membership**

Thomas C. Raup, Esq., *Chair*  
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\* Retired 12-99

\*\* Effective 12-99

**Legal Authorization:**

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

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## History/Background

The Committee on Rules of Evidence was created on September 8, 1998, by the Supreme Court of Pennsylvania to serve as an advisory body to the Court, assisting the Court in fulfilling its constitutional and statutory responsibility to prescribe general rules governing all court proceedings in Pennsylvania's Unified Judicial System. It is the successor to the Ad Hoc Committee on Evidence, which was appointed by the Supreme Court in 1994 to develop a comprehensive code of evidence for the Court's consideration.

After an extensive public comment period and subsequent revisions, the ad hoc committee submitted a proposed evidence code to the Court that was adopted May 8, 1998, as the Pennsylvania Rules of Evidence. It became effective October 1, 1998. Since then, first, the ad hoc committee and then the standing committee have been monitoring 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. In addition, the committees have been reviewing and responding to the various questions that have been raised by judges, lawyers and court personnel.

## Membership and Staff

The first members of the committee on Rules of Evidence were appointed by the Court for initial one-, two- and three-year terms, commencing October 1, 1998. Subsequent appointees have been appointed for three-year terms, with a two-term limit. The committee membership in 1999 consisted of one Common Pleas Court judge, eight attorneys in private practice and a law professor, all of whom have extensive backgrounds in trial practice and procedure and are from different geographical areas of Pennsylvania.

Committee staff consists of one full-time attorney, two part-time two attorneys and an office manager. The committee maintains its office in Mechanicsburg at the AOPC's central site.

## 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*), and various local bar publications and also may be found at the Court's home page at [www.courts.state.pa.us](http://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.

## 1999 Activities

The Committee on Rules of Evidence met three times in Philadelphia in 1999, with several subcommittee meetings and conference

calls being held to address specific issues that came up between meetings.

The committee members continued in 1999 to participate in various programs and seminars about the rules. These sessions also provide the members with an excellent opportunity 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.

### 1999 Committee Action

The Supreme Court adopted one committee recommendation for evidence rule changes in 1999. Several other recommendations remained pending with the Court. The rule changes are described below and are summarized in the Status of Recommendations chart following this report.

#### *Proposals Adopted by the Supreme Court*

**Recommendation No. 8, Rules of Evidence 1998: Editorial changes and technical corrections** to Rules 410, 612, 613, 802 and 803. Adopted by the Court 3-23-99.

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

**Recommendation No. 1 Rules of Evidence 1999: Editorial changes and technical corrections** to Rules 105, 410, 803 and 804.

**Recommendation No. 2 Rules of Evidence 1999:** Amendments to Rule 803.1 updating subsection (1) Comment consistent with recent changes in case law concerning the **admission of prior inconsistent statements**.

**Recommendation No. 3 Rules of Evidence 1999:** Amendments to Rule 408 regarding **admissibility** of compromise negotiations to prove liability for a validity of a claim or amount.

**Recommendation No. 4 Rules of Evidence 1999:** Amendments to Rule 613 to make it clear that both sections (a) and (b) apply to **attacks on credibility** through prior inconsistent statements.

### Looking Ahead to 2000

The committee plans to continue to monitor the Rules of Evidence and the 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.

### Contact Person

Any individuals wanting additional information about the Committee on Rules of Evidence or who have questions about the Rules of Evidence may contact the committee through its Chief Staff Counsel, Anne T. Panfil, Esq., at (717) 795-2100, or by writing to her at the committee's mailing address at 5035 Ritter Road, Suite 800; Mechanicsburg, PA 17055.

Status of Recommendations		
Recommendation	Subject	Status
1, 1998	Amendments to Rules 410, 612, 613, 802 and 803	Adopted 3-23-99; effective immediately
1, 1999	Amendments to Rules 105, 410, 803 and 804	Submitted to Court 8-19-99; pending before Court
2, 1999	Amendments to Rule 803.1	Submitted to Court 8-19-99; pending before Court
3, 1999	Amendments to Rule 408	Submitted to Court 8-19-99; pending before Court
4, 1999	Amendments to Rules 613	Submitted to Court 8-19-99; pending before Court

Table 3.5.1