

1998 Membership

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* Term expired 6-30-98

** Appointed 7-98

+ Term expires 6-30-99

Staff:

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Jennifer Degenfelder, Esq., *Staff Counsel*
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Legal Authorization:

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

Criminal

Procedural

Rules

Committee

5035 Ritter Road, Suite 800
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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 monitors recent developments in criminal procedure in Pennsylvania and in other jurisdictions to identify areas in which the criminal rules need to be amended, revised, streamlined or simplified. The committee also reviews and responds to the numerous questions raised by judges, lawyers, and court personnel; the public; and agencies within the criminal justice system.

In addition, the committee reviews 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.

The committee also monitors all local criminal rules as required by Pennsylvania 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. All comments are considered and, when appropriate, a proposal is modified before final submission to the Court.

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 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 Supreme Court's home page. These publications may be found under Supreme Court Committees at 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. During the first half of 1998, it included a Superior Court judge, three Common Pleas Court judges, the chief disciplinary counsel for the Disciplinary Board of the Supreme Court, five prosecutors, one assistant public defender, three attorneys in private practice, one law professor and a district court administrator. During the second half of 1998, the membership changed with two of the three attorneys in the private sector completing their terms with the committee, and one additional prosecutor being appointed.

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.

1998 Activities

The committee held five two-day full-committee meetings and several subcommittee meetings in 1998. The meetings were held in Pittsburgh, Philadelphia, Hershey, State College, and Wilkes-Barre.

A good deal of the committee's work in 1998 involved an ongoing review of the rules affecting proceedings before the minor judiciary, both in summary cases (Chapter 50), and in court cases (Chapter 100), and responding to specific inquiries from the Supreme Court on issues that arose in case law. In addition, the committee spent substantial time working on its juror information questionnaire proposal, including surveying the president judges concerning the use of juror information questionnaires.

The committee began a major project in the summer of 1998, reviewing all the criminal rules and the organization of the rules. The goal was to determine whether the rules could be presented in a more orderly 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.

The committee also addressed several other areas of criminal practice and procedure, including pleas, discovery, venue, trial procedures, and jury procedures, and initiated research into the use of advanced communication technology in criminal proceedings.

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

The committee continued in 1998 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.

1998 Committee Action

The Supreme Court adopted five committee recommendations for rule changes in 1998. 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 1998 can be found beginning on page 64.

Proposals Adopted by the Supreme Court

Recommendation No. 5, Criminal Rules 1997: Revision of the Comment to Rule 1405 clarifying that defendants in **summary cases** are to be advised of their **appeal rights** following a trial *de novo* and that judges must complete the **sentencing guideline forms**. Adopted 1-9-98, effective immediately. See order and *Final Report* at 28 *Pa.B.* 480 (1-31-98) and 703 A.2d (*Pennsylvania Reporter Series*).

Recommendation No. 8, Criminal Rules 1997: Amendment to Rule 141 and revision of the Rule 83 Comment to clarify that the issuing authority may permit the **affiant to ask questions** of witnesses when no attorney for the Commonwealth is present at the summary trial or at the preliminary hearing. Adopted 2-13-98, effective 7-1-98. See order and *Final Report* at 28 *Pa.B.* 1126 (2-28-98) and 705 A.2d (*Pennsylvania Reporter Series*).

Recommendation No. 1 Criminal Rules 1998: Amendments to Rules 6001, 6003, 6009, and 6010 replacing "district attorney" with "attorney for the Commonwealth" in the **Municipal Court Rules**. Adopted 8-28-98, effective immediately. See order and *Final Report* at 28 *Pa.B.* 4625 (9-12-98) and 716 A.2d (*Pennsylvania Reporter Series*).

Recommendation No. 2 Criminal Rules 1998: Rule 305 Comment revision clarifying that the

disclosure of information about **remuneration** received by an investigator or prosecutor is included within the scope of Rule 305(B)(2)(a) (iv) and is discretionary with the court. Approved 8-28-98, effective 1-1-99. See order and *Final Report* at 28 *Pa.B.* 4624 (9-12-98) and 716 A.2d (*Pennsylvania Reporter Series*).

Recommendation No. 4 Criminal Rules 1998: New Rule 1107 and amendments to Rules 1104 and 1106 providing procedures for the mandatory use of **juror information questionnaires**, and requiring that the questionnaire be a standardized form. Adopted 9-18-98, effective 7-1-99. See order and *Final Report* at 28 *P.B.* 4883 (10-3-98) and 718 A.2d (*Pennsylvania Reporter Series*).

Proposals Pending with the Supreme Court

Note that some of the following recommendations were submitted to the Court without publication pursuant to Pa.R.J.A. 103(a)(3) either in the interests of justice, because exigent circumstances existed which warranted prompt action, or because the proposed changes are technical or perfunctory in nature.

Recommendation No. 8, Criminal Rules 1996: Revision to Rule 86 Comment would clarify the procedures concerning a **police officer's presence** at summary trial and trial *de novo* to address the holding in *Commonwealth v. Hightower*. See *Report* at 26 *Pa.B.* 2167 (5-11-96).

Recommendation No. 16, Criminal Rules 1996: Amendments to Rules 71 and 81 would clarify the procedures related to **collateral in summary cases** and expressly address the exceptions to the immediate trial requirement in Rule 71. See *Report* at 26 *Pa.B.* 4893 (10-12-96).

Recommendation No. 2, Criminal Rules 1997: Proposed Rule 1410 Comment revision to clarify that the Rule 1410 **post-sentence procedures** do not apply in the context of appellate rule 1925(b).

Recommendation No. 6, Criminal Rules 1997: Proposed amendments to Rules 1500, 1507, 1508, and 1509 would provide for notice to a defendant of the PCRA **time limits** and **right to counsel**, impose a time limit on the disposition of petitions in noncapital cases, and provide for extensions of time.

Recommendation No. 7, Criminal Rules 1997: Proposed amendments to Chapter 100 establishing a uniform procedure for handling cases in which the **defendant fails to appear for the preliminary hearing**. See *Supplemental Report* at 26 *Pa.B.* 2307 (5-18-96).

Recommendation No. 3 Criminal Rules 1998: Proposed new Rule 300 and amendments to Rules 21 and 1100 to address *Commonwealth v. McPhail*, providing procedures for the **transfer of cases** when multiple charges arise from a single criminal episode, and the charges are filed in different judicial districts or different magisterial districts. See *Report* at 28 *Pa.B.* 475 (1-31-98).

Recommendation No. 5 Criminal Rules 1998: Proposed amendments to Rules 75, 76, and 85 that would clarify that the October 1997 amendments to these rules concerning **summary warrants** require an **ability to pay hearing** following an arrest for failure to respond to the ten-day notice required under the rules.

Recommendation No. 6 Criminal Rules 1998: Proposed new Rule 143, amendments to Rule 23, and revision of the Comment to Rule 107 that would provide the procedures for the **reinstitution of criminal charges** following the withdrawal or dismissal at, or prior to, the preliminary hearing. See *Report* at 28 *Pa.B.* 1505 (3-28-98).

Recommendation No. 7 Criminal Rules 1998: Proposed amendments to Rules 53, 59, 64, and 69 that would clarify the **summary case guilty plea** procedures when there is a **mandatory sentence** of imprisonment. See *Report* at 28 *Pa.B.* 1510 (3-28-98).

Recommendation No. 8 Criminal Rules 1998: Proposed amendments to Rules 53 and 86 that would clarify that a defendant may **appeal** for a trial *de novo* following a **guilty plea** in a **summary case**.

Recommendation No. 9 Criminal Rules 1998: Proposed amendments to Rule 1114 concerning *Commonwealth v. Karaffa* and **written jury instructions** being sent out with the jury during deliberations.

Recommendation No. 10 Criminal Rules 1998: Proposed amendments to Rules 1101 (Waiver of Jury Trial), 1102 (Procedure When Jury Trial Is Waived), and 1103 (Consent to Be Tried by Less Than Twelve Jurors) to implement the constitutional amendment concerning the **Commonwealth's right to a jury trial**.

Looking Ahead to 1999

The committee plans to continue its review of the criminal rules and the rules' organization as it works towards a reorganization that will present the rules in a more

logical order and will make them easier to follow to the conclusion of a criminal proceeding. The committee also plans to continue examining jury procedures and procedures for utilizing advanced communication technology in criminal proceedings, ongoing projects that will be carried over from 1998. In addition to these three major areas of review, the committee will continue its work on the rules affecting the minor judiciary, both relating to summary cases and court cases, and cases in which a summary offense is charged with misdemeanor or felony charges.

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.



Status of Recommendations

Recommendation	Subject	Status
8, 1996	Revision to Rule 86 Comment clarifying procedures concerning a police officer's presence at summary trial and trial de novo to address the holding in Commonwealth v. Hightower	Submitted to Court 8-1-96; pending before Court
16, 1996	Amendments to Rules 71 and 81 clarifying procedures related to collateral in summary cases	Submitted to Court 12-10-97; pending before Court
2, 1997	Revision of Rule 1410 Comment to clarify that the Rule 1410 post-sentence procedures do not apply in context of appellate rule 1925(b)	Submitted to Court 4-25-97; pending before Court
5, 1997	Proposed Rule 1405 Comment revisions to clarify that defendant is to receive notice of his/her appeal rights following a trial de novo in the Court of Common Pleas, and to clarify that sentencing guideline forms must be completed pursuant to statute	Adopted 1-9-98; effective immediately
6, 1997	Proposed amendments to Rules 1500, 1507, 1508, and 1509 to provide for notice to a defendant of PCRA time limits and right to counsel, to impose a time limit on disposition of petitions in noncapital cases, and to provide for extensions of time	Submitted to Court 10-20-97; pending before Court
7, 1997	Proposed amendments to Chapter 100 establishing a uniform procedure for handling cases in which defendant fails to appear for preliminary hearing	Submitted to Court 11-24-97; pending before Court
8, 1997	Proposed amendment to Rule 141 and revision of Rule 83 Comment to clarify procedures when no attorney for the Commonwealth is present at summary trial or at preliminary hearing	Submitted to Court 11-24-97; pending before Court

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Table 3.7.1

Status of Recommendations, continued

Recommendation	Subject	Status
1, 1998	Amendments to Rules 6001, 6003, 6009, and 6010 replacing "district attorney" with "attorney for the Commonwealth" in the Municipal Court Rules	Adopted 8-28-98, effective immediately
2, 1998	Rule 305 Comment revision clarifying that disclosure of information about remuneration received by an investigator or prosecutor is included within the scope of Rule 305(B)(2)(a)(iv) and is discretionary with the court	Adopted 8-28-98, effective 1-1-99
3, 1998	Proposed new Rule 300 and amendments to Rules 21 and 1100 to address Commonwealth v. McPhail, providing procedures for transfer of cases when multiple charges arise from a single criminal episode, and charges are filed in different judicial districts or different magisterial districts	Submitted to Court 4-1-98; pending before Court
4, 1998	New Rule 1107 and amendments to Rules 1104 and 1106 providing procedures for mandatory use of juror information questionnaires, and requiring standardized form of questionnaire	Adopted 9-18-98; effective 7-1-99
5, 1998	Proposed amendments to Rules 75, 76, and 85 to clarify that October 1997 amendments to these rules concerning summary warrants require an ability to pay hearing following an arrest for failure to respond to ten-day notice required under the rules	Submitted to Court 5-29-98; pending before Court
6, 1998	Proposed new Rule 143, amendments to Rule 23, and revision of the Comment to Rule 107 to provide procedures for reinstatement of criminal charges following the withdrawal or dismissal at, or prior to, the preliminary hearing	Submitted to Court 7-28-98; pending before Court

continued...

Table 3.7.1, cont'd.

Status of Recommendations, continued		
Recommendation	Subject	Status
7, 1998	Proposed amendments to Rules 53, 59, 64, and 69 that would clarify summary case guilty plea procedures when there is a mandatory sentence of imprisonment	Submitted to Court 7-28-98; pending before Court
8, 1998	Proposed amendments to Rules 53 and 86 to clarify that a defendant may appeal for a trial de novo following a guilty plea in a summary case	Submitted to Court 7-28-98; pending before Court
9, 1998	Proposed amendments to Rule 1114 concerning Commonwealth v. Karaffa and written jury instructions being sent out with the jury during deliberations	Submitted to Court 10-14-98; pending before Court
10, 1998	Proposed amendments to Rules 1101 (Waiver of Jury Trial), 1102 (Procedure When Jury Trial Is Waived), and 1103 (Consent to Be Tried by Less Than Twelve Jurors) to implement constitutional amendment concerning Commonwealth's right to a jury trial	Submitted to Court 12-14-98; pending before Court

Table 3.7.1, cont'd.