

## FINAL REPORT<sup>1</sup>

### *New Rule 1036*

*Amendments of Pa.Rs.Crim.P. 105, 1000, 1030, 1031, 1032, 1033, 1034, 1035, 1037*  
*Revisions to the Comments to Pa.Rs.Crim.P. 103, 140, 141, 431, 441, 462, 1001, 1002*

### RULE CHANGES IN LIGHT OF THE ABOLITION OF THE PHILADELPHIA TRAFFIC COURT

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On May 7, 2014, effective immediately, upon the recommendation of the Criminal Procedural Rules Committee, the Court approved the rescission of current Rule 1036 and the adoption of new Rule 1036, the amendment of Rules 105, 1000, 1030, 1031, 1032, 1033, 1034, 1035, and 1037 and the revision of the *Comments* to Rules 103, 140, 141, 142, 431, 441, 462, 1001, and 1002 to accommodate the changes to the manner in which traffic offenses are disposed in the First Judicial District in light of the effective abolition of the Philadelphia Traffic Court and the transfer of that court's functions to the Traffic Division of the Philadelphia Municipal Court.

On June 19, 2013, Act 17 of 2013 was signed into law by the Governor, effectively abolishing the Philadelphia Traffic Court.<sup>2</sup> By the terms of the Act, most of its functions have been transferred to a new Traffic Division of the Philadelphia Municipal Court. Given that there are numerous statewide rules that discuss procedures in the Traffic Court, correlative changes were necessary. Additionally, certain structural changes, particularly the creation of the new office of hearing officer of the Municipal Court Traffic Division, are incorporated into the rules.

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<sup>1</sup> The Committee's *Final Reports* should not be confused with the official Committee *Comments* to the rules. Also note that the Supreme Court does not adopt the Committee's *Comments* or the contents of the Committee's explanatory *Final Reports*.

<sup>2</sup> As the Philadelphia Traffic Court is provided in the Pennsylvania Constitution, a constitutional amendment will be necessary before the Traffic Court is formally abolished in its entirety. That process is ongoing as of the date of this Order.

The following rules listed below are affected by this change. Following each rule title is a brief description of the nature of the amendments that have been adopted to accommodate the changes resulting from the Act:

103 (Definitions)

*A cross-reference to new Rule 1036 regarding the limited definition of hearing officer as an "issuing authority" under that rule has been added to the Rule 103 Comment;*

105 (Local Rules)

*Changes the reference to "Traffic Court" in the rule text to conform with the abolition of Traffic Court;*

140 (Contempt Proceedings before Magisterial District Judges, Pittsburgh Magistrates Court Judges, and Philadelphia Traffic Court Judges)

*Adds language to the Comment regarding the abolition of the Traffic Court and its impact on contempt powers;*

141 (Appeals from Contempt Adjudications Before Magisterial District Judges, Pittsburgh Magistrates Court Judges, and Philadelphia Traffic Court Judges)

*Adds language to the Comment regarding the abolition of the Traffic Court and its impact on contempt powers;*

142 (Procedures Governing Defaults in Payment of Fine Imposed as Punishment for Contempt)

*Adds language to the Comment regarding the abolition of the Traffic Court and its impact on contempt powers;*

431 (Procedures When Defendant Arrested with Warrant)

*Changes the reference to "Traffic Court" in the Comment to conform with the abolition of Traffic Court;*

441 (Procedures Following Arrest Without Warrant)

*Changes the reference to "Traffic Court" in the Comment to conform with the abolition of Traffic Court;*

462 (Trial De Novo)

*Changes the reference to "Traffic Court" in the Comment to conform with the abolition of Traffic Court;*

Chapter 10 (Rules of Criminal Procedure for the Philadelphia Municipal Court and the Philadelphia Traffic Court)

*Changes the title of the Chapter;*

1000 (Scope of Rules)

*Changes the reference to "Traffic Court" in the rule text to conform with the abolition of Traffic Court;*

1001 (Disposition of Criminal Cases -- Philadelphia Municipal Court)

*Changes the reference to "Traffic Court" in the Comment to conform with the abolition of Traffic Court;*

1002 (Procedures in Summary Cases)

*Changes the reference to "Traffic Court" in the Comment to conform with the abolition of Traffic Court;*

Chapter 10 Part B (Philadelphia Traffic Court Procedures)

*Changes the title of the Part;*

1030 (Scope of Summary Traffic Court Rules)

*Changes the Rule title and adds a Comment provision regarding the abolition of the Traffic Court and transfer of function and jurisdiction to the Traffic Division;*

1031 (Institution of Proceedings in Summary Traffic Cases)

*Reorganizes the structure of paragraph (A) of the rule to remove references to the Administrative Judge of Traffic Court;*

1032 (Pleas in Response to Citation)

*Changes the court's name in the rule text;*

1033 (Procedures When Defendant Arrested with Warrant)

*Changes the court's name and the terminology of the presiding officers in the rule text and Comment;*

1034 (Collateral)

*Changes the court's name and the terminology of the presiding officers in the rule text and Comment;*

1035 (Appointment of Counsel)

*Changes the court's name and the terminology of the presiding officers in the rule text;*

1036 (Traffic Court Hearing Officers)

*New rule describing appointment, qualifications, and duties of Traffic Division Hearing Officers;*

1037 (Appeals from Summary Convictions)

*Changes the court's name and the terminology of the presiding officers in the rule text and Comment.*

The majority of the rule changes are correlative changes to terminology resulting from the transfer of the Traffic Court functions to the Traffic Division of the Philadelphia Municipal Court.

However, one significant change is the creation of the office of hearing officer of the Philadelphia Municipal Court Traffic Division. The position was created by Act 17 as the primary officer for proceedings before the Traffic Division. The Committee has worked closely with representatives of the First Judicial District, the Administrative Office of the Pennsylvania Courts, and the Minor Judiciary Education Board to develop the rules defining this new position. As a result of these efforts, original Rule 1036, which provided for the hearing officers of the Philadelphia Traffic Court, has been rescinded and replaced by a new Rule 1036 that provides for the appointment, qualifications, and duties of Philadelphia Municipal Court Traffic Division hearing officers.

As set forth in the Rule 1036 *Comment*, hearing officers are defined as “issuing authorities” for the limited purposes of the proceedings in the Traffic Division. These hearing officers are required to follow the Pennsylvania Rules of Criminal Procedure and the correlative local rules, except that they are precluded from conducting trials or hearings in which there is a likelihood of imprisonment. Consistent with Act 17, hearing officers may be either lawyers or non-lawyers. Rule 1036 mandates that the hearing officers be governed by the Code of Conduct for Employees of the Unified Judicial System. Finally, the new rule provides that the responsibility for hearing officer training would be developed by local rule, which is consistent with Act 17.