

**Proposed New Pa.R.Crim.P. 771
Comment Revision to Pa.R.Crim. 471**

INTRODUCTION

The Criminal Procedural Rules Committee is considering recommending that the Supreme Court of Pennsylvania adopt new Rule 771 (Disposition Report to the Department of Transportation) to require that the court case dispositions required by 75 Pa.C.S. §6323 to be reported to the Pennsylvania Department of Transportation be done so electronically and revise the Comment to Rule 471 (Disposition Report) to remove an archaic provision. This proposal has not been submitted for review by the Supreme Court of Pennsylvania.

The following explanatory Report highlights the Committee's considerations in formulating this proposal. Please note that the Committee's 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 explanatory Reports.

The text of the proposed amendments to the rule precedes the Report. Additions are shown in bold and are underlined; deletions are in bold and brackets.

We request that interested persons submit suggestions, comments, or objections concerning this proposal in writing to the Committee through counsel,

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Criminal Procedural Rules Committee
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no later than Friday, March 7, 2014.

January 10, 2014

BY THE CRIMINAL PROCEDURAL RULES COMMITTEE:

Thomas P. Rogers, Chair

*Jeffrey M. Wasileski
Counsel*

RULE 471. DISPOSITION REPORT.

(A) The issuing authority shall report to the Pennsylvania Department of Transportation the disposition of all summary cases arising under the Vehicle Code. The report shall be sent by electronic transmission in the form prescribed by the Department.

(B) The issuing authority shall print out and sign a copy of the report, which shall include the date and time of the transmission, and a certification as to the adjudication, the sentence, if any, and the final disposition. The copy shall be made part of the record.

(C) Upon the request of the defendant, the attorney for the Commonwealth, or any other government agency, the issuing authority's office shall provide a certified copy of the report required by this rule.

COMMENT: See Rule 1101 for suspension of Acts of Assembly.

This rule does not address the admissibility of evidence. See the Pennsylvania Rules of Evidence and 42 Pa.C.S. § 6101 *et seq.* concerning the Rules of Evidence for documents.

Under paragraph (C), the issuing authority is required to provide a certified copy of the report, but only if the request is made within the period that the issuing authority is required to retain the records.

[Electronic transmissions are to be made from the District Justice Central Site Computer or other computer facility utilized by issuing authorities.]

NOTE: Rule 92 adopted June 3, 1993, effective July 1, 1993; renumbered Rule 471 and amended March 1, 2000, effective April 1, 2001[.] ; **amended** , **2014, effective** , **2014.**

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COMMITTEE EXPLANATORY REPORTS:

Report explaining the provisions of the new rule published with the Court's Order at 23 Pa.B. 2811 (June 19, 1993).

Final Report explaining the March 1, 2000 reorganization and renumbering of the rules published with the Court's Order at 30 Pa.B. 1478 (March 18, 2013).

Report explaining the proposed Comment revision published for comment at 44 Pa.B. _____ (_____, 2014).

(This is an entirely new rule.)

RULE 771. DISPOSITION REPORT TO THE DEPARTMENT OF TRANSPORTATION.

(A) The clerk of courts shall report to the Pennsylvania Department of Transportation all dispositions of charges required by 75 Pa.C.S. §6323 (relating to reports by courts). The report shall be sent by electronic transmission in the form prescribed by the Department.

(B) The clerk of courts shall sign the report on the form prescribed by the Department by means of an electronic signature as authorized by Rule 103.

(C) The clerk of courts shall print out and sign a copy of the report, which shall include the date and time of the transmission, and a certification as to the adjudication, the sentence, if any, and the final disposition. The copy shall be made part of the record.

(D) Upon the request of the defendant, the attorney for the Commonwealth, or any other government agency, the clerk of courts shall provide a certified copy of the report required by this rule.

COMMENT: This rule was adopted in 2014 to provide for the electronic transmission of the case information required under 75 Pa.C.S. §6323 to the Pennsylvania Department of Transportation. The rule provides for procedures at the court of common pleas similar to those already provided under Rule 471 for the reports required to be submitted under 75 Pa.C.S. §6322 by issuing authorities.

This rule does not address the admissibility of evidence. See the Pennsylvania Rules of Evidence and 42 Pa.C.S. § 6101 *et seq.* concerning the Rules of Evidence for documents.

NOTE: New Rule 771 adopted _____, 2014, effective 2014.

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COMMITTEE EXPLANATORY REPORTS:

Report explaining the provisions of the new rule published for comment at 44 Pa.B. (_____, 2014).

REPORT

Proposed New Pa. R.Crim.P. 771
Proposed Amendments to Pa.R.Crim.P. 471

ELECTRONIC TRANSMISSION OF COURT CASE REPORTS TO PENNDOT

The Committee recently received a request from the Court Administrator of Pennsylvania to consider a rule mandating that the information regarding certain types of cases that courts are statutorily required to report to the Pennsylvania Department of Transportation (PennDOT) be done electronically. Currently, 75 Pa.C.S. §6323 requires that the clerks of courts report to PennDOT the disposition of any case arising under the Motor Vehicle Code (Title 75) or under Section 13 of the Controlled Substance, Drug, Device and Cosmetic Act, 35 P.S. §780-113.¹

This is somewhat similar to 75 Pa.C.S. §6322 that requires issuing authorities to provide reports of the disposition of summary motor vehicle cases to PennDOT. Rule 471 was adopted in 1993 to require that the transmission of these reports be done electronically. The impetus for Rule 471 was the implementation of the Court's Magisterial District Judge System (MDJS) that gave issuing authorities the capability of transmitting these reports electronically. The Committee is unaware of any procedural problems that have ever arisen by the electronic transmission provisions of Rule 471.

The proposal would extend this type of transmission to the clerks of courts now that the Court's Common Pleas Case Management System (CPCMS) provides the statewide capabilities for electronic transmission from the common pleas courts. The proposed new rule would simply be an extension to the common pleas courts of the procedures already in place for the MDJ courts.

The new rule would be numbered "Rule 771." Since the reports to PennDOT are filed as essentially the last event in a case at the common pleas level, it is placed after the post-sentence procedures rules and before the expungement rules. The particular

¹ Section 6323 references a provision in the Controlled Substances Act requiring the suspension of a defendant's driver's license for conviction of a drug offense. This provision, 35 P.S. §780-113(m) was repealed in 1993 and the suspension provisions are now found in 75 Pa.C.S. §1532(c).

number is intended to link it to Rule 471.

The text of the Rule would mirror Rule 471 and require the transmittal of the disposition information to be done electronically.

The proposal also contains a provision similar to that in Rule 471 that requires a hard copy of the report to be added to the case file. While the desire is ultimately to move towards paperless case files, the view of the Committee in the past has been to maintain a traditional paper case file, particularly at the common pleas level. However, given current technology that can reproduce hard copies of the transmittal upon request, the Committee is seeking input from respondents about whether this requirement still is necessary, and if not, should Rule 471 also be amended to delete the requirement to maintain a hard copy in the magisterial district judge case files?

A revision would also be made to the *Comment* provision in Rule 471 regarding the locations from which the required transmission could be made. Specifically, the fourth paragraph in Rule 471 *Comment* makes a reference to the “District Justice Central Site Computer,” which is an outdated term since all MDJ offices are equipped for transmitting the required information.