

FINAL REPORT

Title 225. Rules of Evidence
Article IV. Relevancy and its Limits
Rule 404: Character Evidence Not Admissible to Prove Conduct;
Exceptions; Other Crimes

RULE AMENDMENT AND REVISION OF COMMENT

In Pa. R.E. 404(a)(2), the word “complainant” is changed to “alleged victim” to conform with the federal rule and the rules in other states. This subsection is subordinated to statutory limitations in order to accommodate the Rape Shield Law with which the current subsection conflicts.

Unlike F.R.E. 404(a)(1), the Pennsylvania rule fails to give the prosecution the right to counter defense evidence of a character trait of the victim. Thus, the defense could introduce character evidence of the victim but the prosecution could not counter with character evidence of the defendant. The proposed amendment allows for a balanced picture of the participants.

With respect to subsection (b)(4), the federal rule as well as the rule in other states requires only that the prosecution give notice of the “general nature” of other crimes evidence it intends to offer, whereas under the Pennsylvania rule “general nature” is not sufficient. The proposed change conforms our rule to the federal rule.