

CHAPTER **[50] 4**. PROCEDURE IN SUMMARY CASES

Committee Introduction to Chapter **[50] 4**:

The procedures set out in the following rules governing summary cases (as defined in Rule **[3] 103**) recognize the importance of prompt notice that a summary offense is being alleged, while also taking account of the minor nature of summary offenses. Although the law recognizes the possibility of an arrest in some summary cases, it is intended under these rules that a citation will be issued to the defendant except in exceptional circumstances (such as those involving violence, or the imminent threat of violence, or those involving a danger that the defendant will flee).

[Recent e] Experience with citation procedures indicates that most defendants will obey summary process in summary cases. The rule procedures here, therefore, are generally designed to favor the least intrusive means of instituting a summary proceeding. The general scheme laid out in these rules is that normally summary cases will be instituted not by arrest, but by a law enforcement officer (as defined in Rule **[3] 103**) handing a citation to the defendant at the time the offense is committed. There may, however, be situations when it is not feasible to immediately issue a citation to the defendant; in these situations, the law enforcement officer would file a citation with the district justice. In the situations when the affiant is not a law enforcement officer, the affiant would file a complaint with the district justice. When either a citation or a complaint is filed with the district justice, the district justice is expected thereafter to issue a summons to the defendant. Following issuance of process, the rules contemplate that the defendant will respond to the process by either pleading not guilty, after which a summary trial is conducted, or pleading guilty and paying the fine and costs. Unless otherwise provided in Chapter **[50] 4** or elsewhere in the Rules of Criminal Procedure, the court case rules are not intended to apply to summary cases. See *Committee Reports*, 13 **[Pennsylvania Bulletin] Pa.B.** 2948 (October 1, 1983) and 15 **[Pennsylvania Bulletin] Pa.B.** 2708 (July 27, 1985); 465 A.2d Advance Sheets (October 28, 1983) and 494 A.2d Advance Sheets (August 1985).

Although these rules set forth procedures that are expected to be used in summary cases before a court or issuing authority dismisses a case for failure to comply with these summary case rules, a determination is required that there is actual prejudice to the rights of the defendant by failure to comply with the rules. See Rule **[90] 109**.