

2006 Membership

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- * Resigned 6-06
- ** Appointed 6-1-06
- + Term expired 6-30-06
- ++ Appointed 8-28-06

Legal Authorization

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

About the Committee

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.

Criminal

Procedural

Rules

Committee

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Reports

Prior to completing a rule proposal for submission to the Supreme Court, the committee publishes an explanatory report, called simply "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. In some cases the committee also distributes the report directly to organizations within the criminal justice system upon which the proposal may impact.

All comments are considered and, when appropriate, a proposal is modified before final submission to the Court. (Note: Some reports are submitted to the Court without publication, pursuant to Pa.R.J.A. 103(a)(3), this in the interest of justice, because exigent circumstances existed that warranted prompt action, or because the proposed changes are technical or perfunctory in nature.)

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.

2006 Activities

The committee held five full-committee meetings and several subcommittee meetings in 2006. The full-committee meetings were held in Mechanicsburg, Erie, Hershey, Lancaster, Philadelphia and Pittsburgh.

In 2006 the committee continued its work on the following:

- changes necessitated by the Common Pleas Case Management System (CPCMS), the statewide automation of the criminal division of the Common Pleas courts.
- review of the rules affecting proceedings before the minor judiciary, specifically
 - summary guilty pleas
 - procedures when a defendant fails to appear for a preliminary hearing
 - issues arising out of the Magisterial District Judge System (MDJS), the statewide automation of the magisterial district courts.

The committee also addressed several other areas of criminal practice and procedure, including

- bail
- the joinder of summary offenses with misdemeanor and felony charges
- mandating a uniform format for motions, answers and briefs.

In addition, the committee continued to monitor local rules, particularly issues raised by the CPCMS staff that arose as each judicial district was brought online.

The committee communicated regularly with the Court's other advisory committees and the Administrative Office of Pennsylvania Courts concerning various procedural matters in an ongoing effort to achieve uniformity and consistency in interrelated procedural and administrative matters.

2006 Committee Action

The Supreme Court adopted seven committee recommendations for rule changes in 2006. A number of other recommendations remained pending with the Court. They are all

described below and are summarized in the Status of Recommendations chart beginning on page 55.

Proposals Adopted by the Supreme Court

Note: The Final Reports for any of these proposals can also be found on the committee's Web page at www.courts.state.pa.us/Index/SupCtCmtes/CrimRulesCmte/dockcrm.asp.

Recommendation No. 4, Criminal Rules 2005: Proposed new Rules 567 (Notice of Alibi Defense), 568 (Notice of Defense of Insanity or Mental Infirmity; Notice of Expert Evidence of a Mental Condition) and 569 (Examination of Defendant by Mental Health Expert) providing the **procedures for notice of defenses and examination of a defendant by mental health expert(s)**. Adopted 1-27-06, effective 8-1-06. See Final Report at 36 *Pa.B.* 700 (February 11, 2006), 889 *A.2d* Advance Sheets (*Pennsylvania Reporter Series*).

Recommendation No. 8, Criminal Rules 2005: Proposed new Rule 589; amendments to Rules 542, 543, 546, 551, 622 and 648; and correlative changes to clarify the procedures that require the **summary offense** joined with misdemeanor or felony charges to accompany the misdemeanor or felony charges as part of the court case if held for court. The Court of Common Pleas must dispose of the summary offense, except in certain circumstances outlined in the rules. Adopted 3-9-06, effective 9-1-06. See Final Report at 36 *Pa.B.* 1392 (March 25, 2006), 893 *A.2d* Advance Sheets (*Pennsylvania Reporter Series*).

Recommendation No. 1, Criminal Rules 2006: Amendment to Rule 535 to prohibit court officials from asking whether a bail depositor agrees to have the **bail deposit** used towards fines, costs, etc.. Adopted 3-9-06, effective 8-1-06. See Final Report at 36 *Pa.B.* 1398 (March 25, 2006), 891 *A.2d* No. 2 and 892 *A.2d* No. 1 Advanced Sheets (*Pennsylvania Reporter Series*).

Recommendation No. 2, Criminal Rules 2006: Revision of the Comments to Rules 431 and 706 to make it clear a Common Pleas judge may issue a **fine and cost warrant**. Adopted 3-9-06, effective 8-1-06. See Final Report at 36 *Pa.B.* 1396 (March 25, 2006), 891 *A.2d* No. 2 and 892 *A.2d* No. 1 Advanced Sheets (*Pennsylvania Reporter Series*).

Recommendation No. 3, Criminal Rules 2006: Amendments to Rule 522 Comment to make it clear that electronic monitoring is appropriate for detention of **material witnesses**. Adopted 4-28-06, effective 8-1-06. See Final Report at 36 *Pa.B.* 2279 (May 13, 2006), 895 *A.2d* No. 3 Advanced Sheets (*Pennsylvania Reporter Series*).

Recommendation No. 4, Criminal Rules 2006: Amendments to Rules 529, 543 and 1011 to provide for the pre-preliminary hearing for **modification of bail** by a magisterial district judge, exempting Philadelphia from this change and clarifying the proper issuing authority. Adopted 5-19-06, effective 8-1-06. See Final Report at 36 *Pa.B.* 2633 (June 3, 2006), 898 *A.2d* No. 3 Advanced Sheets (*Pennsylvania Reporter Series*).

Recommendation No. 6, Criminal Rules 2006: Amendments to Rule 575(C) establishing **format requirements for motions and answers**. Adopted 7-7-06, effective 2-2-07. See Final Report at 36 *Pa.B.* 3809 (July 22, 2006), 900 *A.2d* No. 3 and 901 *A.2d* No.1 Advanced Sheets (*Pennsylvania Reporter Series*).

Recommendation No. 7, Criminal Rules 2006: Amendments to Rule 114(C)(2)(c) deleting the requirement that there be a **docket entry of the manner of service of court orders and notices**. Adopted 7-20-06, effective 9-1-06. See Final Report at 36 *Pa.B.* 4173 (August 5, 2006), 901 *A.2d* No. 3 and 902 *A.2d* No.1 Advanced Sheets (*Pennsylvania Reporter Series*).

Amendments to Rule 241 that establish regional districts from which the statewide investigating **grand jurors** will be summoned. Adopted

6-7-07, effective immediately. See Court's order at 36 Pa.B. 3085 (June 24, 2006), 899 A.2d and 900 A.2d Advanced Sheets (Pennsylvania Reporter Series). Because these changes were adopted by the Court *sua sponte*, there is no recommendation number, nor a committee explanatory Final Report.)

Proposals Pending with the Supreme Court

Recommendation No. 4, Criminal Rules 2004: Proposed revisions of the comments to Rules 502, 503 and 504 clarifying that the **complaint may be electronically prepared, verified and transmitted**. (The Court put this proposal on hold 8-16-04 at the request of the MDJS and CPCMS staff until the technology is in place to accommodate this change.)

Recommendation No. 5, Criminal Rules 2006: Proposed new Rule 559 and amendments to Rules 509, 510, 511, 512, 536, 542, 543, 547 and 571 addressing issues arising with new uniform procedure when **defendant fails to appear for preliminary hearing** after the August 2005 effective date.

Recommendation No. 8, Criminal Rules 2006: Proposed amendments to Rule 107 (Subpoenas) establishing the procedures for **issuing subpoenas** by magisterial district judges and Courts of Common Pleas. Comparable changes are being proposed by the Minor Court Rules Committee to Pa.R.C.P.M.D.J. 214 (Subpoena; Issuance; Service) in Recommendation No. 4, Minor Court Rules 2006.

Recommendation No. 9, Criminal Rules 2006: Proposed amendments to Rules 462, 720 and 721 clarifying that the time for **appeal** when no post-sentence motion is filed runs from the date of the imposition of sentence. This proposal was developed in conjunction with the Appellate Court Procedural Rules Committee's development of proposed amendments to

Pa.R.A.P. 108 (Date of Entry of Orders), 301 (Requisites for an Appealable Order), and 903 (Time for Appeal) in Recommendation No. 4 of 2006.

Recommendation No. 10, Criminal Rules 2006: Proposed amendments to Rules 403, 409, 414, 424 and 454 concerning **summary case guilty pleas, intermediate punishment and sentences of imprisonment**.

Recommendation No. 11, Criminal Rules 2006: Proposed amendments to Rule 1001 establishing procedures for the Commonwealth to invoke its **right to a jury trial** in Municipal Court cases and transfer the cases to Common Pleas Court.

Looking Ahead to 2006

The committee's efforts in 2006 will include the following:

- working with the CPCMS, coordinating rule proposals with the automation of the criminal divisions of the Common Pleas Courts
- working with the AOPC during the initial phases of the redesign of the MDJS
- continuing to monitor the application of new Rule 644 that permits juror note-taking in criminal cases during the three-year trial period the Court has imposed
- examining detainer practices, written guilty plea colloquy forms and pretrial practices
- continuing to examine public access issues, bail procedures and local rules procedures
- working on rules affecting the minor judiciary
- monitoring criminal practice and procedure and the criminal rules in general. **AOPC**

Status of Recommendations		
Recommendation	Subject	Status
4, 2004	Revisions of comments to Rules 502, 503 and 504, clarifying that complaint may be electronically prepared, verified and transmitted	Put on hold indefinitely by Court 8-16-04
4, 2005	New rules 567, 568 and 569 and correlative amendments providing procedure for notice of defenses and examination of defendant by mental health expert(s)	Adopted 1-27-06, effective 8-1-06
8, 2005	New Rule 589; amendments to Rules 542, 543, 546, 551, 622 and 648; and correlative changes to clarify procedures pertaining to summary offense joined with misdemeanor or felony charges	Adopted 3-9-06, effective 9-1-06
12, 2005	Amendments to Rules 644, 646 and 647 providing procedures for use of juror binders in all criminal cases	Rejected by the Court 1-10-06
1, 2006	Amendment to Rule 535 to prohibit court officials from asking whether a bail depositor agrees to have the bail deposit used towards fines, costs, etc.	Adopted 3-9-06, effective 8-1-06
2, 2006	Revision of Comments to Rules 431 and 706 to make it clear a Common Pleas judge may issue a fine and cost warrant	Adopted 3-9-06, effective 8-1-06
3, 2006	Amendments to Rule 522 Comment to make it clear that electronic monitoring is appropriate for detention of material witnesses	Adopted 4-28-06, effective 8-1-06
4, 2006	Amendments to Rules 529, 543 and 1011 to provide for the pre-preliminary hearing for modification of bail by a magisterial district judge, exempting Philadelphia from this change, and clarifying proper issuing authority	Adopted 5-19-06, effective 8-1-06
5, 2006	New Rule 559, amendments to rules 509, 510, 511, 512, 536, 542, 543, 547 and 571 addressing issues arising with new uniform procedure when defendant fails to appear for preliminary hearing after the August 2005 effective date	Submitted 3-7-06; pending with Court

continued...

Table 3.7.1

Status of Recommendations, continued		
Recommendation	Subject	Status
6, 2006	Amendments to Rule 575(C) establishing format requirements for motions and answers	Adopted 7-7-06, effective 2-2-07
7, 2006	Amendments to Rule 114(C)(2)(c) deleting the requirement that there be a docket entry of the manner of service of court orders and notices	Adopted 7-20-06, effective 9-1-06
8, 2006	Proposed amendments to Rule 107 establishing the procedures for issuing subpoenas by magisterial district judges and Courts of Common Pleas	Submitted 7-27-06; pending with Court
9, 2006	Proposed amendments to Rules 462, 720 and 721 clarifying that the time for appeal when no post-sentence motion is filed runs from the date of imposition of sentence	Submitted 8-28-06; pending with Court
10, 2006	Proposed amendments to Rules 403, 409, 414, 424 and 454 concerning summary case guilty pleas, intermediate punishment and sentences of imprisonment.	Submitted 10-5-06; pending with Court
11, 2006	Proposed amendments to Rule 1001 establishing procedures for the Commonwealth to invoke its right to a jury trial in Municipal Court cases and transfer the cases to Common Pleas Court.	Submitted 10-23-06; pending with Court

Table 3.7.1, cont'd.