

2002 Membership

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Suzanne M. Creavey, *Office Manager*

- * Term expired 9-30-02
- ** Appointed chair effective 10-1-02
- + Appointed vice chair effective 10-1-02
- ++ Effective 10-1-02

Legal Authorization:

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

Criminal

Procedural

Rules

Committee

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History/Background

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.

The committee's work includes:

- monitoring recent developments in criminal procedure in Pennsylvania and in other jurisdictions to identify areas in which the criminal rules need to be amended, revised, clarified, streamlined or simplified
- reviewing and responding to the numerous questions raised by judges, lawyers, and court personnel; the public; and agencies within the criminal justice system
- reviewing Pennsylvania appellate court cases and Pennsylvania legislation, earmarking those decisional or statutory law changes which affect the criminal process and necessitate amendments to the rules or other action by the Court
- monitoring all local criminal rules as required by Rules of Criminal Procedure 105.

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. Published in the *Pennsylvania Bulletin* and the *Atlantic Reporter 2d* (*Pennsylvania Reporter Series*), 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 to provide easy access to the effective dates of criminal rule changes.

Web Site

The Criminal Procedural Rules Committee publishes its rule proposals and explanatory "Reports" as well as the Supreme Court's orders promulgating criminal rule changes, the text of the rule changes, and the committee's "Final Reports" explaining the rule changes on the Unified Judicial System's home page. The publications may be found under Supreme Court Committees at www.courts.state.pa.us.

Membership and Staff

Committee members are appointed by the Supreme Court. Each member's term is three years and members may serve a maximum of two full terms. In 2002 membership at various times included four Common Pleas Court judges, one district justice, the chief disciplinary

counsel for the Disciplinary Board of the Supreme Court, three to four prosecutors, one assistant public defender, four to six attorneys in private practice, the chief of staff to the majority leader of the House of Representatives and one district court administrator.

The committee has a staff of three: two attorneys and an office manager. It maintains its office in Mechanicsburg at the Administrative Office's Central Site.

2002 Activities

The committee held five two-day full-committee meetings and several subcommittee meetings in 2002. The meetings were held in Erie, Hershey, Philadelphia, Pittsburgh and Wilkes-Barre.

In 2002 the committee continued its work on

- development of procedures for the use of advanced communication technology in criminal cases
- overhaul of the procedures governing motions, answers, filing and service in an effort to attain more statewide uniformity in this area of criminal practice
- changes necessitated by the anticipated statewide automation of the criminal division of the Common Pleas Courts
- review of the rules affecting proceedings before the minor judiciary, both in summary cases (Chapter 4), particularly the issues concerning the electronic preparation and filing of citations, motions in summary cases, and the requirements for the continuous availability of issuing authorities, and in court cases (Chapter 5)
- monitoring local rules.

The committee also responded to specific inquiries from the Supreme Court and to issues

that arose in case law. It addressed several other areas of criminal practice and procedure, including right to counsel, bail, discovery, jury procedures, sentencing and the Philadelphia Municipal Court.

The committee communicated regularly with the Administrative Office and with the Supreme Court's other committees concerning various procedural matters in an ongoing effort to achieve uniformity and consistency in inter-related procedural and administrative matters.

Committee staff continued in 2002 to make presentations to the bench, bar and others involved in the criminal justice system concerning recent changes in Pennsylvania's criminal procedures. At these presentations, in addition to sharing information, the committee receives valuable input concerning Pennsylvania's criminal practice.

2002 Committee Action

The Supreme Court adopted ten committee recommendations for rule changes in 2002. A number of other recommendations remained pending with the Court. They are described below. A chart indicating the status of the proposals and recommendations pending in 2002 can be found on page 62.

Proposals Adopted by the Supreme Court

Recommendation No. 14, Criminal Rules 1999: Amendments to Rule 900, providing in capital cases that information concerning the PCRA and the procedures under Chapter 9 of the rules be sent by the Supreme Court prothonotary to the defendant, the defendant's attorney and the attorney for the Commonwealth. Correlative changes to appellate rule 2521 were adopted on the same date. Adopted March 26, 2002, effective July 1, 2002. Chief Justice Zappala filed a dissenting statement in which Justice Nigro joined. See Final Report at 32 Pa.B. 1841 (April 13, 2002), and 793 A.2d

No. 2 Advance Sheets (*Pennsylvania Reporter Series*).

Recommendation No. 1, Criminal Rules 2000: Amendments to Rules 902 and 904 and a correlative Rule 120 Comment revision concerning verification of counsel and entry of appearance in **PCRA** cases. Adopted February 26, 2002, effective July 1, 2002. See Final Report at 32 *Pa.B.* 1393 (March 16, 2002), and 792 *A.2d* No. 2 Advance Sheets (*Pennsylvania Reporter Series*).

Recommendation No. 1, Criminal Rules 2001: Amendments governing **advanced communication technology (ACT)** for conducting preliminary arraignments and arraignments and for requesting and obtaining arrest and search warrants. Adopted May 10, 2002, effective September 1, 2002. See Final Report at 32 *Pa.B.* 2591 (May 25, 2002), and 796 *A.2d* No. 2 Advance Sheets (*Pennsylvania Reporter Series*).

Recommendation No. 2, Criminal Rules 2001: Amendments to Rule 131 permitting, in the president judge's discretion, establishment of **centralized courts** for summary trials. Adopted March 12, 2002, effective July 1, 2002. See Final Report at 32 *Pa.B.* 1630 (March 30, 2002), and 792 *A.2d* No. 2 Advance Sheets (*Pennsylvania Reporter Series*).

Recommendation No. 3, Criminal Rules 2001: Amendments to Rule 112 conforming to the **ACT-related** changes in Recommendation No. 1, Criminal Rules 2001. Adopted May 10, 2002, effective September 1, 2002. See Final Report at 32 *Pa.B.* 2591 (May 25, 2002), and 796 *A.2d* No. 2 Advance Sheets (*Pennsylvania Reporter Series*).

Recommendation No. 5, Criminal Rules 2001: Amendments to Rule 909 providing for extensions of time and sanctions for failure to comply with the dispositional time limits following **PCRA hearings** in death penalty cases. Adopted February 12, 2002, effective July 1, 2002. See Final Report at 32 *Pa.B.* 1174 (March 2, 2002) and 789 *A.2d* No. 2 Advance Sheets (*Pennsylvania Reporter Series*).

Recommendation No. 7, Criminal Rules 2001: Amendments to Rule 708 clarifying the 30-day appeal period following a motion to modify sentence in **probation and parole violation** cases. Adopted February 26, 2002, effective July 1, 2002. See Final Report at 32 *Pa.B.* 1394 (March 16, 2002), and 792 *A.2d* No. 2 Advance Sheets (*Pennsylvania Reporter Series*).

Recommendation No. 6, Criminal Rules 2002: Changes to Rules 221 and 222 conforming the numbers of **alternate jurors** with the 2000 amendments to 42 Pa.C.S. § 4545(a). Adopted September 20, 2002, effective January 1, 2003. See Final Report at 32 *Pa.B.* 5407 (November 2, 2002), and 808 *A.2d* No. 2 Advance Sheets (*Pennsylvania Reporter Series*).

Recommendation No. 8, Criminal Rules 2002: Amendments to Rule 1013 increasing the time for a **Municipal Court trial** from 120 to 180 days. Adopted August 8, 2002, effective January 1, 2003. See Final Report at 32 *Pa.B.* 4124 (August 24, 2002), and 803 *A.2d* No. 2 Advance Sheets (*Pennsylvania Reporter Series*).

Recommendation No. 9, Criminal Rules 2002: New Rule 117 prohibiting charging a fee for the use of **two-way, simultaneous audio-visual communication** in criminal proceedings. Adopted September 20, 2002, effective January 1, 2003. See Final Report at 32 *Pa.B.* 4815 (October 4, 2002), and 806 *A.2d* No. 4 and 807 *A.2d* No. 1 Advance Sheets (*Pennsylvania Reporter Series*).

Proposals Pending with the Supreme Court

Recommendation No. 4, Criminal Rules 2000: Proposed amendments to Rules 122 (Assignment of Counsel) and 904 (Appointment of Counsel; In Forma Pauperis) clarifying that **appointed counsel** remains in the case through all avenues of direct appeal including the Supreme Court.

Recommendation No. 1, Criminal Rules 2002: Changes to Rule 461, permitting a defendant to waive the stay of the sentence in a **summary**

case; to Rule 462, clarifying that the case stays in the Court of Common Pleas following a trial *de novo* for the execution of sentence, including collection of any fine, restitution and costs; and to Rules 430, 453, and 461, making it clear that a warrant should be issued to bring in a defendant who has failed to appear to begin serving a summary sentence of imprisonment.

Recommendation No. 2, Criminal Rules 2002: Changes to Rules 400, 401, 403, 411, and 460 clarifying the procedures when a **parking citation** is electronically filed. Withdrawn July 2, 2002.

Recommendation No. 3, Criminal Rules 2002: New Rule 567 and correlative changes to Rules 573 and 1101 establishing procedures for the **examination of a defendant by a mental health expert** when the court determines the defendant intends to introduce evidence concerning his or her mental condition.

Recommendation No. 4, Criminal Rules 2002: New Rules 568 and 569 creating separate rules from Rule 573 for the **notice of alibi and insanity provisions** and making correlative and clarifying changes.

Recommendation No. 5, Criminal Rules 2002: Changes to the Rules 702 and 704 Comments adding cross-references to 18 Pa.C.S., § 1106 and 42 Pa.C.S., § 9728 to alert members of the bench and bar to the requirements of the statutes concerning consideration of preexisting orders when determining the amount of **restitution**.

Recommendation No. 7, Criminal Rules 2002: Changes to Rules 403, 453, and 505 concerning **multiple summary offenses** on one citation.

Recommendation No. 10, Criminal Rules 2002: New Rule 118 establishing the procedures for the use of and limitations on the use of **two-way simultaneous audiovisual communications** in court cases.

Recommendation No. 11, Criminal Rules 2002: Changes to Rules 401, 403, 405, 406, 411, and

460 providing for the electronic preparation and transmission of **citation information**.

Recommendation No. 12, Criminal Rules 2002: Changes to Rule 141 clarifying the procedures when a **summary contempt determination** is appealed for a *de novo* hearing in the Court of Common Pleas.

Recommendation No. 13, Criminal Rules 2002: Amendments to Rule 1013 expanding the time for a trial *de novo* in the Court of Common Pleas in **Municipal Court cases**.

Looking Ahead to 2003

The committee plans to continue its efforts on the following:

- studying the use of advanced communication technology in criminal proceedings
- working with the Common Pleas Court automation project, coordinating rule proposals with the automation of the criminal divisions of the Common Pleas Courts
- examining jury trial procedures and local rules procedures, working on the rules affecting the minor judiciary
- monitoring criminal practice and procedure and the criminal rules in general.

Contact Person

Anyone wanting additional information about the Criminal Procedural Rules Committee or having questions about the criminal procedural rules may contact the committee through its chief staff counsel, Anne T. Panfil, Esq., at (717) 795-2100 or writing to 5035 Ritter Road, Suite 800; Mechanicsburg, PA 17055. The committee may also be contacted at criminal.rules@pacourts.us. AOPC

Status of Recommendations		
Recommendation	Subject	Status
14, 1999	Amendments to Rule 900 providing for notification of information concerning PCRA procedures under Chapter 900 in capital cases	Adopted 3-26-02, effective 7-1-02
1, 2000	Amendments to Rules 902 and 904, revision of Comment to Rule 120 concerning verification of counsel and entry of appearance in PCRA cases	Adopted 2-26-02, effective 7-1-02
4, 2000	Amendments to Rules 122 and 904, clarifying that appointed counsel remains in the case through all avenues of direct appeal	Submitted 12-28-00; remanded 7-31-01; resubmitted 10-22-01, 10-23-02; pending with Court
1, 2001	Amendments providing for use of advanced communication technology (ACT)	Adopted 5-10-02, effective 9-1-2
2, 2001	Amendment to Rule 131 permitting centralized courts for summary trials	Adopted 3-12-02, effective 7-1-02
3, 2001	Amendments to Rule 112 conforming to proposed ACT-related changes	Adopted 5-10-02, effective 9-1-02
5, 2001	Amendments to Rule 909 providing extensions of time and sanctions concerning the time for disposition following a hearing in PCRA death penalty cases	Adopted 2-12-02, effective 7-1-02
6, 2001	Amendments to Rule 909 adding cross-references to <i>Commonwealth v. Morris</i>	Submitted 7-26-01; remanded 6-26-02; pending with committee
7, 2001	Amendments to Rule 708 clarifying 30-day appeal period following motion to modify sentence in probation and parole violation cases	Adopted 2-26-02, effective 7-1-02
1, 2002	Amendments to Rules 430, 453, 461 and 462 relating to summary cases	Submitted 2-2-02; pending with Court

continued...

Table 3.7.1

Status of Recommendations, continued

Recommendation	Subject	Status
2, 2002	Amendments to Rules 400, 401, 403, 411 and 460, clarifying procedures when a parking citation is electronically filed	Submitted 2-8-02; withdrawn 7-5-02
3, 2002	New rule 567 and correlative changes to Rules 573 and 1101 establishing procedures for examination of a defendant by a mental health expert	Submitted 2-11-02; pending with Court
4, 2002	New Rules 568 and 569 creating separate rules for the notice of alibi and insanity provisions from Rule 573	Submitted 2-11-02; pending with Court
5, 2002	Revision of the Comments to Rules 702 and 704, adding cross-references regarding preexisting orders when determining restitution	Submitted 2-14-02; pending with Court
6, 2002	Amendments to Rules 221 and 222 regarding alternate jurors	Adopted 10-17-02, effective 1-1-03
7, 2002	Amendments to Rules 403, 453 and 505 regarding multiple summary offenses on one citation	Submitted 6-6-02; pending with Court
8, 2002	Amendment to Rule 1013 expanding the time for the trial <i>de novo</i> in the Court of Common Pleas in Municipal Court cases	Adopted 8-8-02, effective 1-1-03
9, 2002	New Rule 117 prohibiting charging a fee for use of two-way simultaneous audio-visual communication	Adopted 9-20-02, effective 1-1-03
10, 2002	New Rule 118 establishing procedures for use of two-way simultaneous audiovisual communications	Submitted 10-10-02; pending with Court
11, 2002	Amendments to Rules 401, 403, 405, 406, 411 and 460 providing for the electronic preparation and transmission of citation information	Submitted 10-10-02; pending with Court
12, 2002	Amendment to Rule 141 regarding summary contempt determinations	Submitted 10-10-02; pending with Court
13, 2002	Amendments to Rule 1013 regarding trials <i>de novo</i> in Municipal Court cases	Submitted 10-10-02; pending with court

Chart 3.7.1, cont'd.