

1997 Membership

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*Term expired 6-30-97

Staff:

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Legal Authorization:

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

Criminal

Procedural

Rules

Committee

5035 Ritter Road
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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 monitors recent developments in criminal procedure in Pennsylvania and in other jurisdictions to identify areas in which the criminal rules need to be amended, revised, streamlined or simplified. The committee also reviews and responds to the numerous questions raised by judges, lawyers, and court personnel; the public; and agencies within the criminal justice system.

In addition, the committee reviews 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.

The committee also monitors all local criminal rules as required by Pennsylvania Rules of Criminal Procedure 6.

The committee periodically publishes reports explaining the committee's proposals for new rules and rule amendments. These reports, called simply *Reports*, can be found in the *Pennsylvania Bulletin* and in the *Atlantic Reporter 2d (Pennsylvania Reporter Series)*. In them the committee encourages the bench, bar and public to submit comments and recommendations concerning the proposals. All comments are considered and, when appropriate, a proposal is modified before final submission to the Court.

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 to provide easy access to the effective dates of criminal rule changes.

Committee membership is appointed by the Supreme Court. Each member's term is three years in length and members may serve a maximum of two full terms. During the first half of 1997, it included a Superior Court judge, one Common Pleas Court judge, the chief disciplinary counsel for the Disciplinary Board of the Supreme Court, five prosecutors, one assistant public defender, seven attorneys in private practice, two law professors and a district court administrator. With the implementation of the Court's new policy that the committee be composed of 15 members, no new member was appointed following the expiration of the term of Common Pleas Court judge Tama Myers Clark in June 1997.

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

1997 Activities

The committee met every ten weeks in 1997. Its work involved an ongoing review of the 1996 amendments to the Post Conviction Relief Act and the new Capital Unitary Review Act and development of a recommendation to coordinate Chapter 1500 of the Criminal Rules with these statutory changes. In addition, the committee addressed a number of areas of criminal practice and procedure, including

- issues affecting the minor judiciary
- discovery

- preliminary hearings and other pretrial procedures
- sentencing proceedings
- issues related to post-sentence practice.

The committee communicated regularly with the Administrative Office and with the Supreme Court's other committees on various procedural matters in an effort to achieve uniformity and consistency among interrelated procedural and administrative matters.

The committee continued in 1997 to make presentations to the bench, the bar and others involved in the criminal justice system regarding recent changes in Pennsylvania's criminal procedures. At these presentations, the committee receives valuable input concerning Pennsylvania's criminal practice.

1997 Committee Action

The Supreme Court adopted a number of committee recommendations for rule changes in 1997. A number of other recommendations remained pending with the Court. These are described below. A chart indicating the status of the proposals and recommendations pending in 1997 can be found beginning on page 57.

Proposals Adopted by the Supreme Court

Recommendation No. 7, Criminal Rules 1995: New rule 85 and amendments to rules 75, 76, 83, 84 and 86 clarify the procedures in **summary cases** for the imposition of fines, costs and restitution; provide for notice of default before issuance of an arrest warrant; and clarify the appeals procedure. See *Final Report* at 27 Pa.B. 5414 (10-18-97) and 699 A.2d (*Pennsylvania Reporter Series*).

Recommendation No. 8, Criminal Rules 1995: New Rules 30, 31, 32 and 39. Establish procedures for handling **contempt** proceedings authorized by statute for the minor court judges.

See *Final Report* at 27 Pa.B. 5405 (10-18-97) and 699 A.2d (*Pennsylvania Reporter Series*).

Recommendation No. 7, Criminal Rules 1996: Chapter 1500 amendments implement the 1996 amendments to the **Post Conviction Relief Act**, 42 Pa.C.S., §§ 9541-9546, and fill in the gaps created by the suspension of the **Capital Unitary Review Act**, 42 Pa.C.S., §§ 9570-9579. See *Final Report* at 27 Pa.B. 4305 (8-23-97) and 697 A.2d (*Pennsylvania Reporter Series*).

Recommendation No. 10, Criminal Rules 1996: New Rule 1411 and related amendments to Rule 1410 provide the procedures for Commonwealth motions to modify **sentence** with a correlative revision of the Comment to Appellate Rule 1701(b)(3). See *Final Report* at 27 Pa.B. 4553 (9-6-97) and 698 A.2d (*Pennsylvania Reporter Series*).

Recommendation No. 11, Criminal Rules 1996: Amendments to Rules 75 and 84 clarifying the procedures for **summary trials in absentia** and the issuance of warrants of arrest in these cases. See *Final Report* at 27 Pa.B. 2117 (5-3-97) and 691 A.2d (*Pennsylvania Reporter Series*).

Recommendation No. 12, Criminal Rules 1996: Revisions to Rules 1403 and 1405 Comments necessitated by the legislation creating **Megan's Law** and defining repeat offenders. See *Final Report* at 27 Pa.B. 2121 (5-3-97) and 691 A.2d (*Pennsylvania Reporter Series*).

Recommendation No. 13, Criminal Rules 1996: Rule 51 Comment revision updating the citation to *Commonwealth v. Beatty* (**summary violations** under the Vehicle Code) for purposes of 18 Pa.C.S., § 110 by adding citations to *Commonwealth v. Taylor* (summary violations of Crimes Code), *Commonwealth v. Kresge* (summary violations of Game and Wildlife Code), and *Commonwealth v. Geyer* (two summary offenses in the same criminal episode). See *Final Report* at 27 Pa.B. 2923 (6-21-97) and 693 A.2d (*Pennsylvania Reporter Series*).

Recommendation No. 14, Criminal Rules 1996: New Rules 87 and 88 provide procedures for the **withdrawal of charges** in summary cases comparable to the procedures in Rule 151 for withdrawals in court cases, and procedures for the **dismissal of charges** upon settlement or agreement in summary cases comparable to the procedures in Rule 145 for dismissals in court cases. See *Final Report* at 27 Pa.B. 2119 (5-3-97) and 691 A.2d (*Pennsylvania Reporter Series*).

Recommendation No. 1, Criminal Rules 1997: Amendments to Rule 149 clarifying that the **collection of fines, costs, and restitution** in a court case following a guilty plea and the **imposition of sentence** by a district justice is to be done in the Court of Common Pleas. See *Final Report* at 27 Pa.B. 4548 (9-6-97) and 697 A.2d (*Pennsylvania Reporter Series*).

Recommendation No. 3, Criminal Rules 1997: Rule 305 Comment revision deleting **obsolete references** to ABA Standards. See *Final Report* at 27 Pa.B. 3997 (8-9-97) and 696 A.2d (*Pennsylvania Reporter Series*).

Recommendation No. 4, Criminal Rules 1997: New Rule 1124A providing the procedures for raising a challenge to the weight of the **evidence** orally at the time of verdict or in a written motion after verdict. See *Final Report* at 27 Pa.B. 5599 (11-1-97) and 700 A.2d (*Pennsylvania Reporter Series*).

Proposals Pending with the Supreme Court

Note that most of the following recommendations were submitted to the Court without publication pursuant to Pa.R.J.A. 103(a)(3) either in the interests of justice, because exigent circumstances existed which warranted prompt action, or because the proposed changes are technical or perfunctory in nature.

Recommendation No. 8, Criminal Rules 1996: Revision to Rule 86 Comment would clarify the

procedures concerning a **police officer's presence** at summary trial and trial *de novo* to address the holding in *Commonwealth v. Hightower*. See *Report* at 26 Pa.B. 2167 (5-11-96).

Recommendation No. 16, Criminal Rules 1996: Amendments to Rules 71 and 81 would clarify the procedures related to **collateral in summary cases** and expressly address the exceptions to the immediate trial requirement in Rule 71. See *Report* at 26 Pa.B. 4893 (10-12-96).

Recommendation No. 2, Criminal Rules 1997: Proposed Rule 1410 Comment revision to clarify that the Rule 1410 **post-sentence procedures** do not apply in the context of appellate rule 1925(b).

Recommendation No. 5, Criminal Rules 1997: Proposed Rule 1405 Comment revisions would clarify that the defendant is to receive notice of his or her **appeal rights** following a trial *de novo* in the Court of Common Pleas, and would clarify that the **sentencing guideline forms** must be completed pursuant to statute.

Recommendation No. 6, Criminal Rules 1997: Proposed amendments to Rules 1500, 1507, 1508, and 1509 would provide for notice to a defendant of the PCRA **time limits** and **right to counsel**, would impose a time limit on the disposition of petitions in noncapital cases, and would provide for extensions of time.


Recommendation No. 7, Criminal Rules 1997: Proposed amendments to Chapter 100 establishing a uniform procedure for handling cases in which the **defendant fails to appear for the preliminary hearing**. See *Supplemental Report* at 26 Pa.B. 2307 (5-18-96).

Recommendation No. 8, Criminal Rules 1997: Proposed amendment to Rule 141 and revision of the Rule 83 Comment to clarify the procedures when **no attorney for the Commonwealth is present** at the summary trial or at the preliminary hearing.

Other Recommendations

The Court declined to adopt **Recommendation No. 15, Criminal Rules 1996**, which proposed amendments to Rule 1405 on **sentencing** to address the holding in *Commonwealth v. Thomas*, subsequently overturned by *Commonwealth v. Anders*.

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 Panfil, at (717) 795-2100 or writing in care of the committee to P.O. Box 1325; Doylestown, PA 18901. 

Status of Recommendations		
Recommendation	Subject	Status
7, 1995	New Rule 85; amendments to Rules 75, 76, 83, 84, 86 clarifying procedures in summary cases for imposition of fines, costs, and restitution; requiring issuing authority to send a notice of default before issuance of arrest warrant; and clarifying procedures for stays of sentence relating to appeals in summary cases	Adopted 10-1-97, effective 10-1-98
8, 1995	New Rules 30, 31, 32, 39 establishing procedures for handling summary criminal contempt by the minor judiciary when authorized by statute	Adopted 10-1-97, effective 10-1-98
7, 1996	Amendments to Chapter 1500 aligning chapter with recent amendments to the Post Conviction Relief Act and the new Unitary Review Act	Adopted 8-11-98, effective immediately
8, 1996	Revision to Rule 86 Comment clarifying procedures concerning a police officer's presence at summary trial and trial de novo to address the holding in <i>Commonwealth v. Hightower</i>	Submitted to Court 8-1-96; pending with Court
10, 1996	Amendments to Rule 1410 and new Rule 1411 providing procedures for Commonwealth motions to modify sentence	Adopted 8-22-97, effective 1-1-98
		continued...

Table 3.6.1

Status of Recommendations, continued

Recommendation	Subject	Status
11, 1996	Amendments to Rules 75 and 84 clarifying procedures for summary trials in absentia and issuance of arrest warrants in these cases	Adopted 4-18-97, effective 7-1-97
12, 1996	Revisions to Rules 1403 and 1405 Comments cross-referencing recent legislation concerning "Megan's Law" and repeat offenders	Adopted 4-18-97, effective immediately
13, 1996	Revision to Rule 51 Comment updating citation to Commonwealth v. Beatty, summary violations under the Vehicle Code	Adopted 6-6-97, effective immediately
14, 1996	Addition of new Rules 87 and 88, amendment to Rule 145 providing summary case procedures comparable to the procedures in Rule 151 for withdrawals and in Rule 145 for dismissals in court cases	Adopted 4-18-97, effective 7-1-97
15, 1996	Amendments to Rule 1405 making it clear that a violation of Rule 1405 time limits, by itself, is not sufficient grounds to vacate a conviction	Court declined to adopt
16, 1996	Amendments to Rules 71 and 81 clarifying the procedures related to collateral in summary cases	Submitted to Court 12-10-97; pending with Court
1, 1997	Amendments to Rule 149 clarifying that the collection of fines, costs, and restitution in a court case following a guilty plea and the imposition of sentence by a district justice is to be done in the Court of Common Pleas	Adopted 8-22-97, effective 1-1-98
3, 1997	Rule 305 Comment revision deleting obsolete references to ABA Standards	Approved 7-28-97, effective immediately
4, 1997	New Rule 1124A providing procedures for raising a challenge to the weight of the evidence orally at the time of verdict or in a written motion after verdict	Adopted 10-10-97, effective 1-1-98

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Table 3.6.1, cont'd.

Status of Recommendations, continued		
Recommendation	Subject	Status
5, 1997	Proposed Rule 1405 Comment revisions to clarify that the defendant is to receive notice of his or her appeal rights following a trial de novo in the Court of Common Pleas, and to clarify that the sentencing guideline forms must be completed pursuant to statute	Submitted to Court 4-25-97; still pending in Court
6, 1997	Proposed amendments to Rules 1500, 1507, 1508, and 1509 to provide for notice to a defendant of the PCRA time limits and right to counsel, to impose a time limit on the disposition of petitions in noncapital cases, and to provide for extensions of time	Submitted to Court 10-20-97; still pending in Court
7, 1997	Proposed amendments to Chapter 100 establishing a uniform procedure for handling cases in which the defendant fails to appear for the preliminary hearing	Submitted to Court 11-24-97; still pending in Court
8, 1997	Proposed amendment to Rule 141 and revision of Rule 83 Comment to clarify the procedures when no attorney for the Commonwealth is present at the summary trial or at the preliminary hearing	Submitted to Court 11-24-97; still pending in Court

Table 3.6.1, cont'd.