

PART **[I] A**: Instituting Proceedings

RULE **[51] 400**. MEANS OF INSTITUTING PROCEEDINGS IN SUMMARY CASES.

Criminal proceedings in summary cases shall be instituted either by:

- [(a)] (1)** issuing a citation to the defendant; or
- [(b)] (2)** filing a citation; or
- [(c)] (3)** filing a complaint; or
- [(d)] (4)** arresting without a warrant when arrest is specifically authorized by law.

COMMENT: This rule establishes the means of instituting criminal proceedings in summary cases. For general citation procedures, see **Chapter 4** Part **[II] B**, Rules **[52 and 53] 402 and 403**.

For the procedures when a citation is issued to a defendant pursuant to paragraph **[(a)] (1)** of this rule, see **Chapter 4** Part **[IIA] B(1)**, Rules **[55, 56, 57, 58, 59] 405, 406, 407, 408, and 409**.

For the procedures when a citation is filed pursuant to paragraph **[(b)] (2)**, see **Chapter 4** Part **[IIB] B(2)**, Rules **[60, 61, 62, 63, 64] 410, 411, 412, 413, and 414**.

For the procedures when a complaint is filed pursuant to paragraph **[(c)] (3)**, see **Chapter 4** Part **[III] C**, Rules **[65, 66, 67, 68, 69] 420, 421, 422, 423, and 424**.

For the procedures when there is an arrest without a warrant pursuant to paragraph **[(d)] (4)** see **Chapter 4** Part **[IV] D(2)**, Rules **[70, 71] 440 and 441**.

For the procedures regarding the use of arrest warrants in summary cases, see **Chapter 4** Part **[V] D(1)**, Rules **[75, 76] 430 and 431**.

For general procedures applicable in all summary cases, see **Chapter 4** Part **[VI] E**, Rules **[80, 81, 82, 83, 84, 85, 86, 90] 451, 452, 453, 454, 455, 456, 457, 458.**

For the procedures for appealing to the court of common pleas for a trial *de novo*, see Chapter 4, Part F, Rules 460, 461, and 462.

For the procedures in summary cases charging parking violations, see **Chapter 4** Part **[VII] A**, Rule **[95] 401.** Although a criminal proceeding may be instituted in these cases by issuing a citation either by handing it to a defendant or placing it on a vehicle windshield, it is expected that many parking cases will be disposed of without a criminal proceeding under these rules. A parking ticket, which is not a citation, is used by a political subdivision and the defendant pays the amount specified on the ticket within the time specified.

Summary cases are cases in which all the offenses charged are either summary offenses, as defined in the Crimes Code, 18 Pa.C.S. § 106(c), or violations of ordinances for which imprisonment may be imposed upon conviction or upon failure to pay a fine or penalty. See Rule **[3] 103.** Criminal proceedings in summary cases are to be brought under this chapter of the rules. If one or more of the offenses charged is a misdemeanor, felony, or murder, the case is a court case (see Rule **[3] 103)** and proceeds under Chapter **[100] 5** of the rules. Any summary offenses in such a case, if known at the time, must be charged in the same complaint as the higher offenses and must be disposed of as part of the court case. See Crimes Code § 110, 18 Pa.C.S. § 110, and *Commonwealth v. Campana*, 304 A.2d 432 (Pa. 1973), vacated and remanded, 414 U.S. 808 (1973), on remand, 314 A.2d 854 (Pa. 1974). *But see Commonwealth v. Beatty*, 455 A.2d 1194 (Pa. 1983); *Commonwealth v. Taylor*, 522 A.2d 37 (Pa. 1987); and *Commonwealth v. Kresge*, 464 A.2d 384 (Pa. Super. 1983) (no Section 110 violation when separate prosecutions involve offenses "not within the jurisdiction of a single court"). See also *Commonwealth v. Geyer*, 687 A.2d 815 (Pa. 1996) (Section 110 applies to separate prosecution of two summary offenses within the jurisdiction of a single

court).

The summary case rules are not intended to prohibit or to suspend any acknowledgment of guilt procedures that may be specifically authorized by statute. See, e.g., Section 926 of the Game and Wildlife Code, 34 Pa.C.S. § 926, and Section 925 of the Fish and Boat Code, 30 Pa.C.S. § 925. Furthermore, the use of a field acknowledgment of guilt pursuant to 34 Pa.C.S. § 926 or 30 Pa.C.S. § 925 should not be construed as the issuance of a citation for the purpose of instituting a summary case under these rules. See Rules **[55 and 60] 405 and 410**.

The Rules of Criminal Procedure generally do not apply to juvenile proceedings, but these rules do apply to proceedings in summary cases involving juveniles to the extent that the Juvenile Act does not apply to such proceedings. See, e.g., Juvenile Act §§ 6302-6303, 42 Pa.C.S. §§ 6302-6303; Vehicle Code § 6303, 75 Pa.C.S. § 6303. See also 42 Pa.C.S. § 1515(a)(1) and 6303(a)(5) concerning jurisdiction of summary offenses arising out of the same episode or transaction involving a delinquent act for which a petition alleging delinquency is filed.

See Section 1522 of the Judicial Code, 42 Pa.C.S. § 1522, concerning parental notification in certain summary cases involving juveniles.

NOTE: Previous Rule 51, adopted January 23, 1975, effective September 1, 1975; *Comment* revised January 28, 1983, effective July 1, 1983; *Comment* revised December 15, 1983, effective January 1, 1984; rescinded July 12, 1985, effective January 1, 1986; and replaced by present Rules **[3, 51, 52, 55, 60, 65, 70, 75, and 95] 103, 400, 401, 402, 405, 410, 420, 440, and 430**. Present Rule 51 adopted July 12, 1985, effective January 1, 1986. The January 1, 1986 effective dates all are extended to July 1, 1986; *Comment* revised February 1, 1989, effective July 1, 1989; *Comment* revised January 31, 1991, effective July 1, 1991; *Comment* revised January 16, 1996, effective immediately; *Comment* revised June 6, 1997, effective immediately **[.] ; renumbered Rule 400 and amended March 1, 2000, effective April 1, 2001.**

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COMMITTEE EXPLANATORY REPORTS:

Report explaining the January 31, 1991 amendments published at 20 Pa.B. 4788 (September 15, 1990); Supplemental Report published at 21 Pa.B. 621 (February 16, 1991).

Report explaining the January 16, 1996 Comment revisions published with the Court's Order at 26 Pa.B. 437 (February 3, 1996).

Report explaining the June 6, 1997 Comment revision published with the Court's Order at 25 Pa.B. 2923 (June 21, 1997).

Final Report explaining the March 1, 2000 reorganization and renumbering of the rules published with the Court's Order at Pa.B. _____, 2000.