

## 2004 Membership

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### Staff:

Richard L. Kearns, Esq., *Staff Counsel*  
Terri L. Metil, *Administrative Assistant*

### Legal Authorization:

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

### About the Committee

The Committee on Rules of Evidence was created by the Supreme Court of Pennsylvania as an advisory body to assist the Court in its constitutional and statutory responsibility to prescribe general rules governing court proceedings in Pennsylvania's Unified Judicial System. The committee studies and makes recommendations to the Court about matters affecting evidence law in the Commonwealth. It monitors the practical application of the new rules as well as developments in evidence law in Pennsylvania and in other jurisdictions as reflected in case law and statutory changes that have occurred since the rules' adoption.

Members are appointed to three-year terms, and each member may serve two consecutive terms.

## Committee

on

Rules of

Evidence

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[www.courts.state.pa.us/  
Index/SupCtCmtes/  
evidence/indexevid.asp](http://www.courts.state.pa.us/Index/SupCtCmtes/evidence/indexevid.asp)

## Publication

Prior to completing a rule proposal for submission to the Supreme Court, the committee publishes an explanatory “Report” describing the committee’s proposal. This process 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*), in various local bar publications and also on the Unified Judicial System’s home page at [www.courts.state.pa.us](http://www.courts.state.pa.us), under Supreme Court Committees. (Note: Some proposals are submitted to the Court without publication pursuant to Pa.R.J.A. 103(a)(3) in the interests of justice, because exigent circumstances exist that warrant prompt action or because the proposed changes are technical or perfunctory in nature.)

The committee considers all publication comments and, when appropriate, will modify a proposal before a final recommendation is submitted to the Court.

When the Court adopts a recommendation, the committee prepares a “Final Report” explaining the recommendation, including any post-publication modifications. These “Final Reports,” which are published with the Court’s orders, are useful sources of information about the rule changes and the committee’s considerations in developing the proposal.

## 2004 Committee Action

**Revision of Comment to Pa. R.E. 702** to reflect the decision of the Supreme Court in *Grady v.*

*Frito-Lay*, December 31, 2003, affirming the Frye **standard for admissibility of expert testimony** and rejecting the Daubert standard. Adopted 4-1-04, effective 5-10-04.

**Revision of Comment to Pa R.E. 804(b)(2)** to provide that a **dying declaration**, even though testimonial, may not violate the confrontation clause (Sixth Amendment of the U.S. Constitution) as interpreted by the U.S. Supreme Court in *Crawford v. Washington*. Adopted 12-17-04, effective 1-31-05.

**Revision of Introductory Comment to Article VIII, Hearsay** to cite *Crawford v. Washington* wherein the U.S. Supreme Court interpreted the **confrontation clause** as prohibiting the admission of testimonial hearsay in a criminal case unless the defendant had an opportunity to confront and cross-examine the declarant. Adopted 12-17-04, effective 1-31-05.

**Revision of Comment to Pa. R.E. 104** to reflect the decision regarding **competency hearings of child witnesses**. Pursuant to *Commonwealth v. Washington*, 722 A.2d 643 (Pa. 1998), competency hearings of child witnesses must be held outside the presence of the jury. In *Commonwealth v. Delbridge*, 855 A.2d 27 (Pa. 2003), the Court held that a competency hearing is the appropriate way to explore an allegation that the testimony of a child has been impaired or tainted by suggestive interview techniques. Submitted to the Court. AOPC