

THE COURTS

Title 201—RULES OF JUDICIAL ADMINISTRATION

[201 PA. CODE CH. 1]

Adoption, Filing and Publishing of Rules

Introduction

The Administrative Office of Pennsylvania Courts (AOPC) is considering recommending that the Supreme Court rescind current Rule of Judicial Administration 103 (Procedures for Adoption, Filing and Publishing Rules), Rule of Civil Procedure 239 (Local Rules) and Rule of Criminal Procedure 6 (Local Rules) and replace them with new Rules of Judicial Administration 103.1 through 103.3 (Adoption, Filing and Publishing of Rules). Included in the proposal are changes which specify (1) the procedures for the adoption, publication and filing of both statewide and local rules; (2) the requirements for a valid and enforceable local rule of court; and (3) the schedule for the rescission of all existing local rules and the promulgation of new local rules.

The following explanatory Report highlights the issues considered in formulating this proposal. Please note that the Supreme Court does not adopt the contents of an explanatory Report.

The text of the proposed rules precedes the Report.

Interested persons are encouraged to submit suggestions, comments or objections concerning this proposal to the Court Administrator of Pennsylvania, Administrative Office of Pennsylvania Courts, 1515 Market Street, Philadelphia, Pennsylvania 19102, on or before Friday, October 18, 1996.

By The Administrative Office of Pennsylvania Courts

NANCY M. SOBOLEVITCH,
Court Administrator of Pennsylvania

Rule of Judicial Administration 103, Rule of Civil Procedure 239 and Rule of Criminal Procedure 6 are rescinded and replaced with the following:

Rules of Judicial Administration 103.1 through 103.3 ADOPTION, FILING AND PUBLISHING OF RULES

Introduction

These Rules of Judicial Administration contain the rulemaking procedure for all components of the Unified Judicial System: the Supreme Court of Pennsylvania (Rule 103.1), the courts of common pleas and Philadelphia Municipal Court (Rules 103.2-1, 103.2-2 and 103.2-3) and all other courts, agencies and units of the system except the Court of Judicial Discipline and the Judicial Conduct Board (Rule 103.3).

The Supreme Court's policy on local rulemaking is "to implement the unified judicial system under the Constitution of 1968, to facilitate the statewide practice of law under this Court's general rules, and to promote the further policy that a general rule of procedure normally preempts the subject covered." Order No. 110 of January 28, 1983, Criminal Procedural Rules Docket No. 2.

In accordance with this policy, local rules may not reiterate statewide rules or Acts of Assembly, or make it difficult for attorneys to practice in several counties. It is important to note that the caption or other words used as

a label or designation do not determine whether something is a local rule. If the matter satisfies the definition in Rule 103.2-1, it is a local rule regardless of what it may be called.

To ensure review and consolidation of existing local rules, and to eliminate rules which have become unnecessary or do not comply with these rules, Rule 103.2-2 requires that all local rules be reviewed by the court which promulgated them, that all local rules be rescinded and that only those local rules which the court determines to be necessary to be promulgated and published.

Annex A

TITLE 201. RULES OF JUDICIAL ADMINISTRATION

CHAPTER 1. GENERAL PROVISIONS

Rule 103.1. Statewide Rules of the Supreme Court. Publication, Filing and Distribution.

(a) Except as provided in subdivision (c), the proposing rules committee shall submit to the Legislative Reference Bureau for publication in the *Pennsylvania Bulletin* the initial recommendation of a proposed statewide rule or amendment to a rule, including the explanatory note or comment which may accompany it. The proposed rule or amendment as submitted for publication shall be prefaced by a statement inviting written comments which are to be sent directly to the proposing rules committee within a specified period of time.

(b) The proposing rules committee shall review all written communications received in response to the publication prior to the submission of the proposal to the Supreme Court. If after review of the communications the committee revises the proposal, it may submit the revised proposal for publication and comment as provided in subdivision (a).

(c) A proposed rule or amendment may be promulgated even though it has not been previously published in the manner required by subdivision (a) if

(1) exigent circumstances require immediate promulgation; or

(2) the proposed rule or amendment is of a typographical or perfunctory nature; or

(3) in the discretion of the Supreme Court, such action is required in the interests of justice or efficient administration.

(d) The Order of the Supreme Court promulgating a rule or amendment together with the rule or amendment shall be filed in the office of the Prothonotary of the Supreme Court.

(e) The Prothonotary shall distribute the Order and rule as follows:

(1) one certified copy to the publisher of the Pennsylvania State Reports who shall print it in the first available volume;

(2) two duplicate originals and a diskette in the required format containing the Order and rule, to the Legislative Reference Bureau for publication in the *Pennsylvania Bulletin*;

(3) one certified copy to the clerks and prothonotaries of all courts which may be affected thereby, who shall ensure that the Order and rule are made public in their judicial districts; and

(4) one certified copy to the proposing rule committee.

Rule 103.2-1. Local Rules Adopted by Courts of Common Pleas or Philadelphia Municipal Court. Definition.

The term "local rule" shall include but not be limited to every rule, regulation, directive, policy, practice, custom, usage, form or order of general application, however labeled or promulgated, which is adopted or enforced by a court of common pleas or Philadelphia Municipal Court to govern practice or procedure.

Rule 103.2-2. Rescission and Promulgation of Local Rules Required.

All local rules and related forms, existing as of the date of the Order of the Supreme Court promulgating this rule, shall be rescinded and new local rules and related forms shall be promulgated in accordance with Rule of Judicial Administration 103.2-3. All local rules and related forms which have not been promulgated as required by this rule will be rescinded by an order of the Supreme Court, one area of law at a time on the following schedule:

Rules of Administration, Business of the Court, General Provisions	December 31, 1997
Criminal Procedural Rules	December 31, 1998
Civil Procedural Rules	December 31, 1999
Orphans' Court Rules	December 31, 2000
Domestic Relations Rules	December 31, 2001

Rule 103.2-3. Local Rules. Requirements. Effective Date.

- (a) To be valid and enforceable, a local rule
 - (1) shall be consistent with, but shall not repeat or paraphrase any statewide rule of the Supreme Court or any Act of Assembly;
 - (2) shall be in writing;
 - (3) shall be given a number that is keyed to the number of the statewide rule to which the local rule corresponds;
 - (4) shall be filed, together with the adopting order, with the prothonotary or clerk of the adopting court;
 - (5) shall not make it difficult for attorneys to practice in several counties; and
 - (6) shall be maintained as part of a consolidated set of all the local rules of court adopted and published in accordance with this rule.
 - (i) The consolidated set of local rules shall be kept available for public inspection in the office of the clerk or prothonotary of the court.
 - (ii) Upon request and payment of reasonable costs of reproduction and mailing, the prothonotary or clerk shall furnish to any person a copy of any local rule of that judicial district.
- (b) A local rule shall not become effective and enforceable until the prothonotary or clerk of the adopting court has fully complied with the following requirements.
 - (1) The prothonotary or clerk shall mail a certified copy of the local rule and adopting order to the appropriate Supreme Court rules committee. Whenever it cannot be determined with rules committee is appropriate, the prothonotary or clerk shall send a copy to all the rules committees.

(2) No sooner than 60 days after mailing to the appropriate rules committee as provided in paragraph (b)(1), the prothonotary or clerk shall submit to the Legislative Reference Bureau for publication in the *Pennsylvania Bulletin*

(i) two certified copies of the local rule and adopting order. The order shall include a certification, signed by the president judge or a judge formally designated by order of the president judge, that the order and local rule were mailed to the appropriate Supreme Court rules committee as required by paragraph (b)(1), and

(ii) a diskette in the required format containing the text of the order, the local rule, and the judge's certification.

(c) A local rule shall be effective no sooner than 30 days after the date of publication in the *Pennsylvania Bulletin*.

(d) The appropriate Supreme Court rules committee may at any time recommend that the Supreme Court suspend, vacate, or require amendment of a local rule, and may suspend the local rule pending action by the Court on that recommendation.

(e) Except as provided by Rule of Judicial Administration 1901 relating to the termination of inactive cases, no action or proceeding shall be dismissed for failure to comply with a local rule.

Rule 103.3. Rules Adopted by All Other Courts, Agencies and Units of the Unified Judicial System.

(a) The term "rule" shall include but not be limited to every rule, regulation, directive, policy, practice, custom, usage, form or order of general application, however labeled or promulgated, which regulates practice or procedure before the adopting court, agency or unit, or otherwise has the effect of law but shall not include a general or local rule as set forth in Rules 103.1 and 103.2 or a rule of the Court of Judicial Discipline and the Judicial Conduct Board.

(b) To be valid and enforceable, a rule shall be in writing, and maintained as part of a consolidated set of all the rules of the court, agency or unit adopted and published in accordance with this rule. The consolidated set of rules shall be kept available for public inspection in the office of the clerk or prothonotary of the court, agency or unit. Upon request and payment of reasonable costs of reproduction and mailing, the prothonotary or clerk shall furnish to any person a copy of any rule which is part of that consolidated set.

(c) The prothonotary or clerk shall submit to the Legislative Reference Bureau for publication in the *Pennsylvania Bulletin* two certified copies of the rule and adopting order and a diskette in the required format containing the text of the rule and adopting order.

(d) The Supreme Court may suspend, vacate, or require amendment of a rule adopted by a court, agency or unit.

Report

Proposal to Rescind Rule of Judicial Administration 103, Rule of Civil Procedure 239 and Rule of Criminal Procedure 6 and Adopt New Rules of Judicial Administration 103.1 through 103.3

Background

Current Rule of Judicial Administration 103, Rule of Civil Procedure 239 and Rule of Criminal Procedure 6

establish the process by which the trial courts of Pennsylvania adopt local rules of court, a process recognized as necessary to the efficient administration of the various judicial districts. However, the ongoing proliferation of local rules and practices has made it increasingly difficult for lawyers to practice statewide, adding to the complexity and cost of litigation. Such proliferation also impedes the development of statewide judicial support systems.

Discussion

AOPC has developed this proposal to rescind Rule of Judicial Administration 103, Rule of Civil Procedure 239 and Rule of Criminal Procedure 6 and adopt new Rules of Judicial Administration 103.1 through 103.3. Several provisions of the proposed new rules are of particular importance:

(1) 103.2-3 defines the local rulemaking process, providing for submission of all proposed rules to the appropriate Supreme Court rules committee before publication in the *Pennsylvania Bulletin*;

(2) 103.2-3 provides that a local rule shall be effective no sooner than 30 days after the date of publication in the *Pennsylvania Bulletin*; and

(3) to ensure review and consolidation of existing local rules and to eliminate rules which are unnecessary or do not comply with the Supreme Court's rules, 103.2-2 sets the schedule, one area of law at a time, by which all local rules and related forms shall be rescinded and new local rules and related forms promulgated.

[Pa.B. Doc. No. 96-1087. Filed for public inspection July 5, 1996, 9:00 a.m.]

Title 234—RULES OF CRIMINAL PROCEDURE

PART I. GENERAL

[234 PA. CODE CHS. 20, 100, 300, 1500 AND 6000]
Order Amending Rules 27, 180, 181, 304, 1503 and
6001; No. 209; Doc. No. 2

Order

Per Curiam:

Now, this 19th day of June, 1996, upon the recommendation of the Criminal Procedural Rules Committee; this Recommendation having been submitted without publication pursuant to Pa.R.J.A. 103(a)(3), and a *Final Report* to be published with this Order:

It Is Ordered pursuant to Article V, Section 10 of the Constitution of Pennsylvania that Pa.Rs.Crim.P. 27, 180, 181, 304, 1503, and 6001 are hereby amended, all as follows.

This *Order* shall be processed in accordance with Pa.R.J.A. 103(b), and shall be effective July 1, 1996.

Annex A

TITLE 234. RULES OF CRIMINAL PROCEDURE

PART I. GENERAL

CHAPTER 20. ISSUING AUTHORITIES: VENUE, LOCATIONS AND RECORDINGS OF PROCEEDINGS

Rule 27. Publicity and Recording of Proceedings.

* * * * *

(b) If it appears to the court that a violation of [**section**] **paragraph** (a) has resulted in substantial prejudice to the defendant, the court, upon application by the attorney for the Commonwealth or **the** defendant, may:

(1) quash the proceedings at the preliminary hearing and order another preliminary hearing to be held before the same issuing authority at a subsequent time without additional costs being taxed therefor;

(2) discharge the defendant on nominal bail if in custody, or continue his bail if at liberty, pending further proceedings;

(3) order all costs of the issuing authority forfeited in the original proceedings;

[**(4) in counties in which the indicting grand jury has not been abolished, order the case submitted to the grand jury subsequent to the one to be summoned for the term of court to which the defendant has been bound or held, with notice to the defendant and his bondsman, if any, of the term of court in which the case shall be submitted to the grand jury;**] and

[**(5)**] **(4)** adopt any, all, or combination of the remedies herein established as the nature of the case shall require in the interests of justice.

Official Note: Formerly Rule 143 adopted January 31, 1970, effective May 1, 1970; renumbered **Rule 27** September 18, 1973, effective January 1, 1974; amended February 15, 1974, effective immediately; Comment revised March 22, 1989, effective July 1, 1989; **amended June 19, 1996, effective July 1, 1996.**

Comment

"Recording" as used in this [**Rule**] **rule** is not intended to preclude the use of recording devices for the preservation of testimony as permitted by Rules 9015 and 9015A.

Committee Explanatory Reports: Final Report explaining the June 19, 1996 amendments published with the Court's Order at 26 Pa.B. 3128 (July 6, 1996).

CHAPTER 100. PROCEDURE OF COURT CASES

PART VII. ACCELERATED REHABILITATIVE DISPOSITION

COURT CASES

Rule 180. Deferring Action Upon Admission to Program Before Information [**or Indictment**].

When a defendant is accepted into the program of accelerated rehabilitative disposition before **the filing of an information [or indictment]**, the judge shall order that no information shall be filed with the court [**or that no bill of indictment shall be presented to the grand jury**] on the charges contained in the transcript during the term of the program.

Official Note: [**Approved**] **Adopted** May 24, 1972, effective immediately; amended February 15, 1974, effective immediately; **amended June 19, 1996, effective July 1, 1996.**

Committee Explanatory Reports: Final Report explaining the June 19, 1996 amendments published with the Court's Order at 26 Pa.B. 3128 (July 6, 1996).

Rule 181. Deferring Adjudication of the Charges Upon Admission to Program After Information [**or Indictment**].

When a defendant is accepted into the program of accelerated rehabilitative disposition after **the filing of an information [or indictment]**, the judge shall order that further proceedings on the charges shall be postponed during the term of the program.

Official Note: [**Approved**] **Adopted** May 24, 1972, effective immediately; amended February 15, 1974, effective immediately; **amended June 19, 1996, effective July 1, 1996.**

Committee Explanatory Reports: Final Report explaining the June 19, 1996 amendments published with the Court's Order at 26 Pa.B. 3128 (July 6, 1996).

CHAPTER 300. PRETRIAL PROCEEDINGS

Rule 304. Bill of particulars.

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(c) Upon failure or refusal of the attorney for the Commonwealth to furnish a bill of particulars after service of a request [**upon him**], the defendant may make written motion for relief to the court within 7 days after such failure or refusal. If further particulars are desired after an original bill of particulars has been furnished, a motion therefor may be made to the court within 5 days after the original bill is furnished.

(d) When a motion for relief is made, the court may make such order as it deems necessary in the interests of justice.

Official Note: Adopted June 29, 1977, effective January 1, 1978; amended October 21, 1983, effective January 1, 1984; **amended June 19, 1996, effective July 1, 1996.**

Comment

[**This rule replaces previous Rules 221 and 230 in their entirety. Prior to the 1977 revision of this Chapter, the rules dealing with Bills of Particulars appeared in Chapter 200, concerning indictments (Rule 221) and informations (Rule 230).**] The 1977 transfer of the provisions concerning bills of particulars from Chapter 200 to Chapter 300 was not intended to change the traditional function of a bill of particulars—namely, to clarify the pleadings and to limit the evidence which can be offered to support the [**indictment or**] information [**—has not been changed by the transfer of the provision to Chapter 300**]. The purpose of the transfer was to place the procedure in chronological context with other pretrial matters, including discovery and the omnibus pretrial motion.

Committee Explanatory Reports: Final Report explaining the June 19, 1996 amendments published with the Court's Order at 26 Pa.B. 3128 (July 6, 1996).

CHAPTER 1500. POST-CONVICTION COLLATERAL PROCEEDINGS

Rule 1503. Docketing and Assignment.

(a) Upon receipt of a motion for post-conviction collateral relief, the clerk of [**court**] courts shall immediately docket the motion to the same term and number as the underlying conviction and sentence. The clerk shall thereafter transmit the motion and the record to the trial

judge, if available, or to the administrative judge, if the trial judge is not available. If the defendant's confinement is by virtue of multiple indictments **or informations** and sentences, the case shall be docketed to the same term and number as the indictment **or information** upon which the first unexpired term was imposed, but the court may take judicial notice of all proceedings related to the multiple indictments **or informations**.

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Official Note: Previous Rule 1503 adopted January 24, 1968, effective August 1, 1968; rescinded December 11, 1981, effective June 27, 1982; rescission vacated June 4, 1982; rescinded February 1, 1989, effective July 1, 1989, and replaced by present Rule 1504. Present Rule 1503 adopted February 1, 1989, effective July 1, 1989; **amended June 19, 1996, effective July 1, 1996.**

Comment

[**This rule replaces paragraphs (a) and (b) of former Rule 1502.**]

As used in this rule, "trial judge" is intended to include the judge who accepted a plea of guilty or nolo contendere.

The transmittal of the motion to the attorney for the Commonwealth does not require a response unless one is ordered by the judge as provided in these rules.

Although most references to indictments and indicting grand juries were deleted from these rules in 1993 since the indicting grand jury had been abolished in all counties, see PA. CONST. art. I, § 10 and 42 Pa.C.S. § 8931(b), the reference was retained in this rule because there may be some cases still pending that were instituted prior to the abolition of the indicting grand jury.

Committee Explanatory Reports: Final Report explaining the June 19, 1996 amendments published with the Court's Order at 26 Pa.B. 3128 (July 6, 1996).

CHAPTER 6000. RULES OF CRIMINAL PROCEDURE FOR THE MUNICIPAL COURT OF PHILADELPHIA

Rule 6001. Disposition of Criminal Cases—Municipal Court, Philadelphia.

(A) Any misdemeanor under the Crimes Code or other statutory criminal offense for which no prison term may be imposed or which is punishable by a term of imprisonment of not more than 5 years, including any [**indictable**] offense **under the Vehicle Code** other than a summary offense [**under the motor vehicle laws**], shall be a Municipal Court case.

(B) When one or more such offenses are charged in a single complaint or series of complaints against one defendant, all shall be joined in the same Municipal Court case, regardless of the length of the cumulative sentence which could be imposed on all charges.

(C) A case may be transferred from the Municipal Court to the Court of Common Pleas by order of the President Judge of the Court of Common Pleas, or [**his**] **the President Judge's** designee, upon [**his**] **the President Judge's** approval of:

(1) a certification by defense counsel that trial in the Municipal Court will unduly delay defendant's access to a trial by jury; or

(2) a certification by both defense counsel and the District Attorney that the trial of the case will be so time consuming as to unduly disrupt the business of the Municipal Court.

Official Note: [Adopted] Present Rule 6001 adopted March 28, 1973, effective March 28, 1973, replacing prior Rule 6001; amended June 28, 1974, effective July 1, 1974; **[last sentence] paragraph (C)** added February 10, 1975, effective immediately; title amended July 1, 1980, effective August 1, 1980; Comment revised January 28, 1983, effective July 1, 1983; **amended June 19, 1996, effective July 1, 1996.**

Comment

This Rule is intended to assure that the Municipal Court will take dispositive action, including trial and verdict when appropriate, in any criminal case which does not involve a felony, excluding summary cases under the **[motor vehicle laws] Vehicle Code**. The latter are under the jurisdiction of the Philadelphia Traffic Court, **see [Judicial Code §§ 1301—1303, 1321;] 42 Pa.C.S. §§ 1301—1303, 1321 [(1981)].**

Committee Explanatory Reports: Final Report explaining the June 19, 1996 amendments published with the Court's Order at 26 Pa.B. 3128 (July 6, 1996).

FINAL REPORT

Amendment of Pa.Rs.Crim.P. 27, 180, 181, 304, 1503, and 6001; Indictments and Indicting Grand Juries

Introduction

On June 19, 1996, upon the recommendation of the Criminal Procedural Rules Committee, the Supreme Court amended Rules of Criminal Procedure 27, 180, 181, 304, 1503, and 6001. These changes update the references to indicting grand juries consistent with the changes adopted by the Supreme Court on August 12, 1993. This Final Report highlights the Committee's considerations in formulating these amendments.¹

Discussion

On August 12, 1993, the Court rescinded the indicting grand jury rules and amended a number of rules which

¹ Please note that the Committee's Reports should not be confused with the official Committee Comments to the rules. Also note that the Supreme Court does not adopt the Committee's Comments or the contents of the Committee's explanatory Reports.

referred to the grand jury process because the indicting grand jury had been abolished in all counties.² In a subsequent review of the rules in general, the Committee discovered that some references to indictments or indicting grand juries had been inadvertently retained in the rules. In view of this, we recommended and the Court adopted the following changes.

RULE 27 (Publicity and Recording of Proceedings): Paragraph (b)(4) has been deleted in its entirety. The procedure is no longer necessary since the indicting grand jury has been abolished in all counties.

RULES 180 (Deferring Action Upon Admission to Program Before Information or Indictment) and 181 (Deferring Adjudication of Charges Upon Admission to Program After Information or Indictment): Both Rules 180 and 181 refer to proceedings in cases when a defendant is accepted into a program of accelerated rehabilitation disposition either before or after the filing of an information or indictment. The references to indictment procedures have been deleted from the titles and text of both rules.

RULE 304 (Bill of Particulars): The first paragraph of the Rule 304 Comment provides an historical background, and refers to indictments. The historical background and references to indictments have been deleted.

RULE 1503 (Docketing and Assignment): The reference to indictments in Rule 1503(a) has been retained because of the possibility that cases which were instituted by an indictment may still be awaiting post-conviction collateral review. The reason for retaining this reference is explained in the Comment. In addition, to make the rule clear that it also applies to cases instituted by an information, "or information" has been added after the three references to indictments in paragraph (a).

RULE 6001 (Disposition of Criminal Cases—Philadelphia Municipal Court): Rule 6001 has been amended to more clearly convey the point that summary cases under the Vehicle Code are excluded from Municipal Court jurisdiction, and to delete the term "indictable."

[Pa.B. Doc. No. 96-1088. Filed for public inspection July 5, 1996, 9:00 a.m.]

² The Committee's Report explaining the 1993 changes was published at 22 Pa.B. 3826 (July 27, 1993).