

**Report of the
Administrative Office of
Pennsylvania Supreme Court
2004**

Supreme Court of Pennsylvania

*Chief Justice Ralph J. Cappy
Justice Ronald D. Castille
Justice Russell M. Nigro
Justice Sandra Schultz Newman
Justice Thomas G. Saylor
Justice J. Michael Eakin
Justice Max Baer*

*'04 in Brief
(listed chronologically)*

*Supreme Court promul-
gates criminal rules
changes to require that
attorneys representing
defendants in capital
cases meet specific cri-
teria for training, educa-
tion and experience*

*Commonwealth Court's
mediation program suc-
cessfully resolves its 500th
case since the program
began in January 2000*

*Chief Justice Ralph J.
Cappy and Governor Ed
Rendell unveil plans for
Pennsylvania Judicial
Center to be built in
Harrisburg*

*Supreme Court updates its
professional conduct rules
for attorneys, to better
serve and protect clients
receiving legal services in
the Commonwealth.
Changes are the culmina-
tion of eight years of work
involving American and
Pennsylvania Bar Associ-
ations and Disciplinary
Board of the Supreme
Court*

U.S. Supreme Court appoints Chief Justice Ralph J. Cappy to Federal Judicial Conference Committee

Administrative Office announces creation of new court interpreter program to enhance translator services in Pennsylvania's courts for growing non-English-speaking population

Supreme Court merges Pittsburgh Magistrates Court into Allegheny County district justice court system

Administrative Office announces framework for security enhancements in the state court system for the public, litigants, staff and jurists



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To: The Honorable Chief Justice of Pennsylvania and Honorable Justices of the Supreme Court of Pennsylvania and to the Citizens of the Commonwealth

I am pleased to present this Report of the Administrative Office of Pennsylvania Courts (AOPC) for 2004. This general reference document reflects the hard work and dedicated service of the boards and committees of the Supreme Court of Pennsylvania and the AOPC.

This report outlines many of the programs and services that provide the framework of the Commonwealth's state court system. It also serves to highlight noteworthy accomplishments in the administration of justice that took place during what was both a very busy and productive year.

Among the year's many highlights was the unveiling of drawings for the design and construction of Pennsylvania's first-ever judicial center by Gov. Edward G. Rendell and Chief Justice of Pennsylvania Ralph J. Cappy. Occupants of the center will include the Supreme Court Middle District prothonotary, executive administrator of the Supreme Court, Superior Court Middle District prothonotary, the Commonwealth Court, the AOPC and various Supreme Court boards and committees. The Judicial Conduct Board and the Court of Judicial Discipline will also have offices in the center.

"The new Judicial Center design balances symbolism with functionality," Chief Justice Cappy said at the unveiling. "The building will appropriately reflect the status of Pennsylvania's judiciary as a coequal branch of government with the legislative and executive branches."

The new facility will be located at Commonwealth and North streets between the Finance and Health and Welfare buildings in Harrisburg. Construction is scheduled for completion in the first quarter of 2008.

Preface
from the
Court
Administrator

Preface
from the
Court
Administrator,
continued

"The new judicial center will ensure that for the first time, the courts of Pennsylvania have one home that is befitting of the vital and important role they play," the governor said at the September 16, 2004, gathering. "By locating the facility in the Capitol Complex, the courts will have a prominent and proper place to conduct their business side-by-side with the legislative and executive branches."

Other noteworthy events from 2004 included the culmination of an 18-month effort -- with significant support from the General Assembly, the governor and the Commonwealth's counties -- in creating the framework for security enhancements in the state court system for the public, litigants, staff and jurists. The efforts evolved from the previous work of the state Supreme Court's Judicial Council Committee on Safety and Preparedness, chaired by Justice Sandra Schultz Newman. County commissioners, sheriffs, judges, magisterial district judges, court administrators and others collaboratively reviewed court-related safety issues.

Though many counties already had implemented significant security measures in trial court facilities prior to the completion of the assessment process in February 2004, added enhancements were implemented to significantly improve overall court security as a result of the assessment.

Philadelphia's First Judicial District earned a number of plaudits during the year. For one, the National Center for State Courts released a study that concluded the First Judicial District's civil division of the Court of Common Pleas was "one of the finest and most successful urban trial courts in the country." The National Center, which is the leading worldwide authority in court management and administration, was retained by the court to study the civil operation.

Other honors for the First Judicial District during the year included Philadelphia Municipal Court President Judge Louis J. Presenza's unanimous election as chair of the National Association of Drug Court Professionals during the organization's Tenth Annual Drug Court Training Conference in Milwaukee. Judge Presenza became the fourth chairman -- and first Pennsylvanian -- to hold this prestigious office in the association, whose mission is to reduce substance abuse, crime and recidivism and enhance public safety by providing advocacy, education and training to drug court professionals throughout the United States and abroad.

In Western Pennsylvania, merging the existing magisterial district judge system into what was formerly Pittsburgh Magistrates Court took place during 2004, ensuring greater efficiencies for the judiciary and greater accountability to city residents. The

consolidation also significantly enhanced the administrative unification of the state court system. The merger came after a two-year study of the feasibility of combining the courts. Allegheny County magisterial district judges now hear all matters that previously came exclusively before Pittsburgh Magistrates and Housing Courts. And while the former Magistrates Court was transitioned into the magisterial district judge system, district judges were assigned to Municipal Court and Housing Court with the same duties as those of the minor judiciary statewide.

Significant additions were made to AOPC staff during the year that have helped enhance court administration. The AOPC is the administrative agent for the Supreme Court of Pennsylvania, which has constitutional responsibility not only as the Commonwealth's court of last resort, but also as the administrative leader of more than 1,000 jurists, 900 state court staff and thousands of county court staff and row officers and their employees.

James J. Koval, a veteran communications and legislative aide to former state Attorney General Leroy Zimmerman and former state Treasurer Barbara Hafer, was named Communications Manager and Assistant for Intergovernmental Relations at the AOPC. Koval filled a new position to help lead and broaden existing AOPC external and internal communications and legislative efforts.

Also, Osvaldo R. Avilés was named to the newly created position of Interpreter Programs Administrator within the AOPC. His task is to enhance translator services in Pennsylvania's courts for a growing non-English-speaking population. Avilés is responsible for developing and overseeing a statewide court interpreter/translator certification program and assisting the Commonwealth's 60 judicial districts in providing foreign language interpreter services for citizens who are not proficient in English.

In keeping with its mandate to ensure impartiality within the courts, the judiciary launched an intergovernmental commission during the year to further explore and implement solutions in the areas of gender, ethnic and racial fairness. With representatives from all three branches of government, a unique and innovative approach, the commission's work will rely on the work and report of the Supreme Court Committee on Racial and Gender Fairness as a basis for its work.

Chief Justice Cappy was appointed to the United States Judicial Conference Committee on Federal-State Jurisdiction by then-U.S. Supreme Court Chief Justice William H. Rehnquist. Chief Justice Cappy was one of five new members appointed in 2004 to the 14-member committee, which reviews proposed changes in federal jurisdiction and acts as a liaison between the state courts and the U.S.

Preface
from the
Court
Administrator,
continued

Preface
from the
Court
Administrator,
continued

Judicial Conference. Committee members include state Supreme Court chief justices and federal district judges.

The Supreme Court during 2004 updated a series of professional conduct rules to better protect and serve clients receiving legal services in the Commonwealth and the lawyers who represent them. An order issued by the court amended the Pennsylvania Rules of Professional Conduct for the Commonwealth's nearly 55,000 lawyers. The action was the culmination of nearly eight years of work at both the national and state levels, involving the American and Pennsylvania Bar Associations and the Disciplinary Board of the state Supreme Court.

New criminal trial rules adopted during the year now require the certification of attorneys representing first-degree murder defendants so as to enhance fairness, uniformity and public confidence in the handling of capital cases. The new requirements, contained in a newly created Criminal Procedural Rule 801, outline specific criteria for experience, education and training for defense lawyers in capital cases.

Under the direction of the Chief Justice and the Supreme Court, the AOPC will continue to serve the courts for the benefit of all Pennsylvanians by advancing efficiency and excellence in the administration of justice. The combined efforts of the courts and the other branches of government seen in this report continue to provide a guide to help shape the vision of the state court system.

Sincerely,



ZYGMONT A. PINES

Court Administrator of Pennsylvania

Pennsylvania's judiciary began as a disparate collection of courts, some inherited from the reign of the Duke of York and some established by William Penn. They were mostly local, mostly part time, and mostly under control of the governor. All of them were run by non-lawyers. And although the Provincial Appellate Court was established in 1684, no court could be called the court of final appeal. Final appeals had to be taken to England.

Several attempts were made in the early years of the eighteenth century to establish a court of final appeal in Pennsylvania and to further improve and unify the colony's judicial system, but because the crown had final veto power over all colonial legislation, these attempts proved futile. Finally, in 1727 the crown sanctioned a bill that had been passed five years earlier.

The Judiciary Act of 1722 was the colony's first judicial bill with far-reaching impact. It established the Pennsylvania Supreme Court, providing for a chief justice and two justices who would sit twice yearly in Philadelphia and ride the circuit at other times; and it created the Court of Common Pleas in Philadelphia, Bucks and Chester Counties.

The court system in Pennsylvania did not change again until the Pennsylvania Constitution of 1776. By establishing the Courts of Sessions, Courts of Common Pleas and Orphans' Courts in each county, the constitution allowed Pennsylvania to see the beginning of a state-wide framework for the development of its judicial system.

A new constitution in 1790 encouraged further development in the Commonwealth's judicial system by grouping counties into judicial districts and placing president judges at the heads of the districts' Common Pleas Courts. This was meant to ease the Supreme Court's rapidly increasing workload. Constitutional changes in 1838 and 1874 and a constitutional amendment in 1850 effected changes in the

**A Brief
History
of the
Courts of
Pennsylvania**

Evolution of Pennsylvania's Judicial System

Judicial system of local magistrates and an appellate court exist in Pennsylvania's early settlements

Judiciary Act of 1722 renames Provincial Court the Pennsylvania Supreme Court, allowing for one chief justice and two associate justices

Constitution of 1790 groups counties into judicial districts, with president judges to head the Common Pleas Courts

Constitutional amendment makes the entire judiciary elective

Superior Court is created to ease burdens of the Supreme Court

Judicial Computer Project (JCP) linking state's 538 district justices is completed

UJS takes a step closer to achieving constitutional mandate of being truly unified by bringing court administrators on board as UJS staff

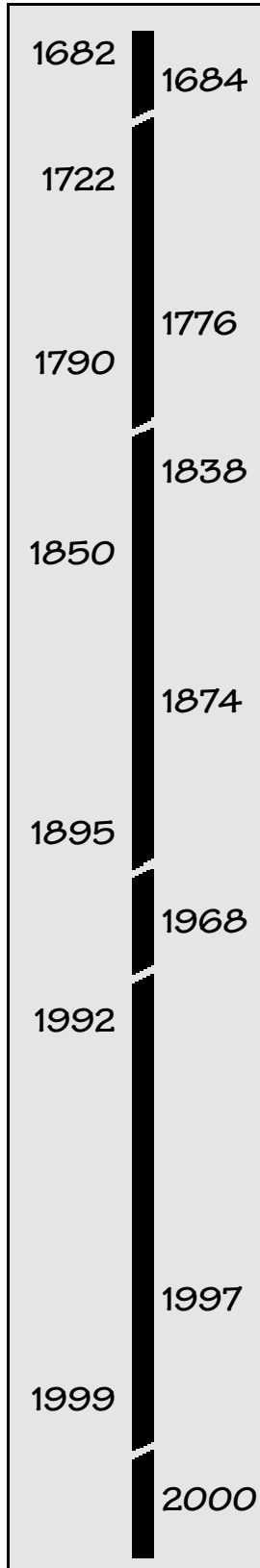


Chart 2.1.1

jurisdiction, tenure, and election or appointment of members of the judiciary. In 1895 the General Assembly created the Superior Court to further ease the workload of the Supreme Court, giving each appellate court separate jurisdictions.

The Constitution of 1968 initiated the most sweeping changes in Pennsylvania's judiciary in nearly a century, creating the Commonwealth Court to reduce the workload of the Superior and Supreme Courts by hearing cases brought against and by the Commonwealth; substantially altering the minor court system; and reorganizing the judiciary into the Unified Judicial System, consisting of the Supreme, Superior and Commonwealth Courts; Common Pleas Courts; Philadelphia Municipal Court; Pittsburgh Magistrates Court; Philadelphia Traffic Court; and district justice courts, with provisions for any future courts the law might establish. (For further information on each of these courts, see The Structure of Pennsylvania's Unified Judicial System on page 9.)

Both judicially and administratively, the Supreme Court is, by constitutional definition, Pennsylvania's highest court. In matters of law, it is the Commonwealth's court of last resort. In matters of administration, the Supreme Court is responsible for maintaining a single, integrated judicial system and thus has supervisory authority over all other state courts.

In 1980 the legislature approved a decrease in the Supreme Court's mandated jurisdiction by expanding that of the Superior Court. Consequently, the Pennsylvania Supreme Court, like the United States Supreme Court, can now exercise discretion in accepting or rejecting most appeals, allowing it to devote greater attention to cases of far-reaching impact as well as to its constitutional obligation to administer the entire judicial system.

Chart 2.1.1 on the preceding page is a timeline of the evolution of Pennsylvania's judicial system. AOPC

**The
Structure
of
Pennsylvania's
Unified
Judicial
System**

Pennsylvania's judicial system forms a hierarchal structure that can best be illustrated in the form of a pyramid, as presented in Figure 2.2.1 below:

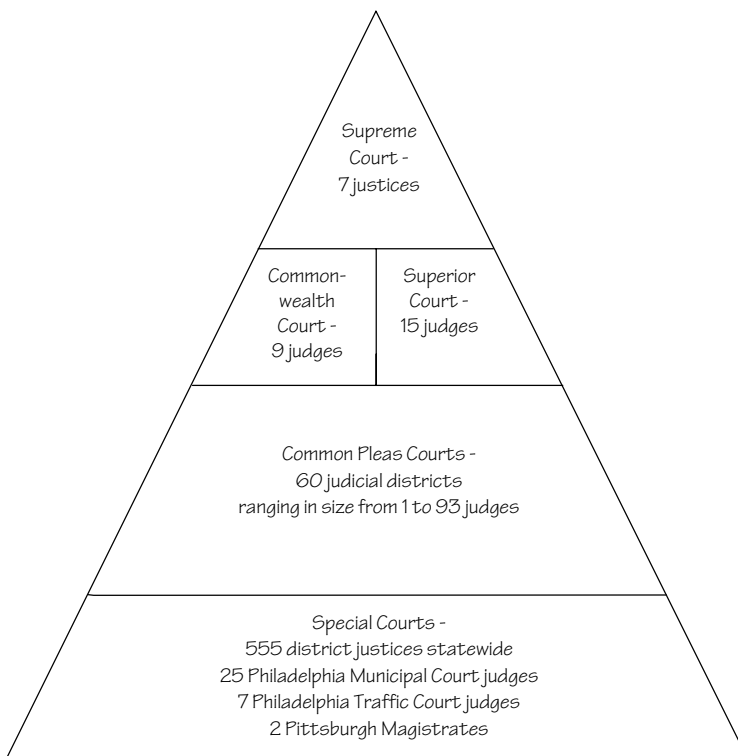


Figure 2.2.1

Special courts form the foundation of this system, followed in turn by the Courts of Common Pleas; the Commonwealth and Superior Courts; and the Supreme Court, the Commonwealth's court of last resort. A description of each level of the judiciary, beginning with the special courts, follows.

Special Courts

Special courts, also called minor courts or courts of limited jurisdiction, constitute the "grass roots" level of Pennsylvania's court system. For many Pennsylvanians these are the first, and often the only, courts they will ever encounter. The special courts include 555 district justice courts, Philadelphia Municipal Court, Philadelphia Traffic Court and Pittsburgh Magistrates Court.

District Justice Courts

District justices preside over the district justice courts in all counties but Philadelphia. They have authority to:

- conduct non-jury trials concerning criminal summary matters not involving delinquent acts as defined in 42 Pa.C.S., § 6301 *et seq.*
- conduct non-jury trials concerning civil claims (unless the claim is against a Commonwealth party as defined in 42 Pa.C.S., § 8501) where the amount in controversy does not exceed \$8,000, exclusive of interests and costs, in the following classes of actions:
 - landlord-tenant actions
 - *assumpsit* actions unless they involve a contract where the title to real estate may be in question
 - trespass actions
 - fines and penalties by any government agency
- preside over preliminary arraignments and preliminary hearings
- fix and accept bail, except in cases involving murder or voluntary manslaughter
- issue arrest warrants
- accept guilty pleas to the charge of Driving under the Influence (75 Pa.C.S.A., § 3731) so

long as it is a first offense, no personal injury occurred to a third party other than the defendant's immediate family, property damage to any third party is less than \$500 and the defendant is not a juvenile

- preside over non-jury trials involving all offenses under Title 34 (relating to game)
- accept guilty pleas to misdemeanors of the third degree in certain circumstances.

District justices are not required to be lawyers, but if they are not, they must complete an educational course and pass a qualifying examination before they can take office. They must also complete one week of continuing education each year in a program administered by the Minor Judiciary Education Board. (For more information on the Minor Judiciary Education Board see page 83.)

Philadelphia Municipal Court

One of two special courts in Philadelphia County, Municipal Court is Pennsylvania's only court of record at the minor courts level. Its judges have the same jurisdiction as district justices with the following exceptions:

- jurisdiction includes all criminal offenses, except summary traffic offenses that are punishable by a term of imprisonment not exceeding five years
- they may enter judgments in civil claims where the amount does not exceed \$10,000.

The Municipal Court complement numbers 25, and judges who serve on this court must be attorneys.

Municipal Court judges elect from their ranks a president judge who oversees the administration of the court. The president judge serves one five-year term and may be reelected after a minimum one-term interlude.

In addition, an administrative judge may be appointed by the Supreme Court. This judge is responsible for judicial assignments, budgeting and the daily operation of the court.

Philadelphia Traffic Court

Philadelphia Traffic Court's jurisdiction covers all summary offenses under the Motor Vehicle Code as well as any related city ordinances.

Seven judges sit on this court. As with district justices, the judges need not be lawyers, but must complete the certifying course and pass the qualifying examination administered by the Minor Judiciary Education Board.

Unlike the president judges in the Common Pleas and Philadelphia Municipal Courts, the president judge of Traffic Court is appointed by the governor.

Pittsburgh Magistrates Court

In addition to the district justices who serve throughout Allegheny County, the city of Pittsburgh, by statute, has from five to eight police magistrates*. These magistrates, who are required to be members of the Pennsylvania bar, sit on the Pittsburgh Magistrates Court. As members of Pennsylvania's only nonelective court, each magistrate is appointed by Pittsburgh's mayor to a four-year term.

Pittsburgh Magistrates may:

- issue arrest warrants
- preside at arraignments and preliminary hearings for criminal offenses occurring within the city
- preside over criminal cases brought by Pittsburgh police for violations of city ordinances and other specified offenses

- handle all summary offenses under the Motor Vehicle Code and related city ordinances.

*Effective with Supreme Court amended order No. 192, Magisterial Docket No. 1 dated 4-8-03, appointments to Pittsburgh Magistrates Court were suspended after 12-31-02 until further notice. This was in response to the Petition for Realignment submitted by the president judge of Allegheny County that the court be evaluated over a two-year period to determine the feasibility of phasing it out. Current magistrates will continue to serve until their terms expire. As of 1-1-04, two members remained on the court, both of whose terms expired 12-31-04.

The special courts in Pennsylvania hold no jury trials. In summary cases, the district justice hears the case and reaches a decision on its merits. In misdemeanor and felony cases, the district justice first holds a preliminary arraignment at which charges are formally brought. Following the preliminary arraignment, the district justice also holds a preliminary hearing, unless that hearing has been waived by the defendant to Common Pleas Court, the next level of the judicial pyramid. During the preliminary hearing the district justice determines whether sufficient evidence exists for the case to be tried in Common Pleas Court.

At some point in this process the district justice will also hold a bail hearing to determine what security is appropriate to ensure the defendant's appearance at later court proceedings.

Appeals of judgments made by special court judges may be taken to Common Pleas Court where the case is heard *de novo*, or anew.

Common Pleas Courts

Common Pleas Courts are Pennsylvania's courts of general trial jurisdiction. They have original jurisdiction over all cases not exclusively assigned to another court and appellate jurisdiction over judgments from the special

courts. They also hear appeals from certain state and most local government agencies.

The courts are organized into 60 judicial districts which generally follow the geographic boundaries of the Commonwealth's counties; however, seven of the districts are comprised of two counties. They are: Perry-Juniata, Snyder-Union, Franklin-Fulton, Wyoming-Sullivan, Columbia-Montour, Warren-Forest and Elk-Cameron. Each district has from one to 93 judges.

Each district also has a president judge to administer the affairs of the court. In districts with seven or fewer judges, the judge with the longest continuous service holds this position. In districts with eight or more judges, the president judge is elected to a five-year term by his or her peers.

Appellate Court System

Pennsylvania's appellate courts form a two-tiered appeals system. The first, or intermediate, level has two courts: the Superior Court, which has 15 judges, and the Commonwealth Court, which has nine. At the second level is the seven-justice Supreme Court, the highest court in Pennsylvania.

In general, appeals of Common Pleas Court decisions are made to one of the two intermediate appellate courts.

Commonwealth Court

The Commonwealth Court was created by the Constitutional Convention in 1968 as not only a means to reduce the workload of the Superior and Supreme Courts, but as a court to hear cases brought against and by the Commonwealth. It has, therefore, both original and appellate jurisdiction.

The court's **original** jurisdiction encompasses:

- civil actions brought against the Commonwealth government or an officer of the government, usually seeking equitable relief or declaratory judgment and not damages
- civil actions brought by the Commonwealth government (note: these could also be brought in the Courts of Common Pleas)
- matters under the Election Code involving statewide offices.

Its **appellate** jurisdiction includes:

- appeals relating to decisions made by most state administrative agencies
- appeals from the Courts of Common Pleas involving:
 - actions against the Commonwealth that could not be initiated in Commonwealth Court
 - actions by the Commonwealth that could have been commenced in Commonwealth Court
 - some appeals from decisions of the Liquor Board and the Department of Transportation
 - most local government matters other than contract issues, including actions for damages
 - eminent domain proceedings
 - matters involving the internal affairs of nonprofit corporations.

Superior Court

Because the Superior Court's main function is as an appeals court, its original jurisdiction is limited. Such jurisdiction includes applications made by the attorney general and district attorneys under the Wiretapping and Electronic Surveillance Control Act.

As an appeals court, the Superior Court's jurisdiction is less specialized than the Commonwealth's; therefore, it hears a wide variety

of petitions, both criminal and civil, from Common Pleas Courts. Such petitions include all manner of cases from child custody to armed robbery to breach of contract.

Supreme Court

Since the Supreme Court was established by the Pennsylvania Provincial Assembly in 1722, the Commonwealth's highest court has undergone several major changes that have helped shape its composition today. The most far-reaching of these changes was the 1980 expansion of the Court's authority that allowed it to not only better administer the entire judicial system, but to devote greater attention to cases holding significant consequence for the Commonwealth and its citizens.

The Supreme Court's jurisdiction encompasses four main areas: original, appellate, exclusive and extraordinary.

The Court's **original** jurisdiction is non-exclusive and includes cases:

- of *habeas corpus*, cases involving detention of a party and determination of whether that party has been denied liberty without due process
- of *mandamus* or prohibited to courts of inferior jurisdiction
- of *quo warranto*, lawsuits challenging the right of an individual to hold a public office, alleging that the individual is holding the office illegally.

The Court's **appellate** jurisdiction includes those cases it hears at its own discretion and various types of cases heard as a matter of right. These latter cases include appeals of cases originating in Commonwealth Court and appeals of certain final orders issued by either the Common Pleas Courts or specific constitutional and judicial agencies.

Appeals from final orders of Common Pleas Courts include:

- cases involving matters prescribed by general rule
- the right to public office
- matters where the qualifications, tenure or right to serve or the manner of service of any member of the judiciary is in question
- review of death sentences
- supersession of a district attorney by the attorney general or by a court
- matters where the right or power of the Commonwealth or any political subdivision to create or issue indebtedness is in question
- statutes and rules held unconstitutional by the Courts of Common Pleas
- matters where the right to practice law is involved.

The Supreme Court has **exclusive** jurisdiction of appeals from the following boards/commissions:

- Legislative Reapportionment Commission
- Court of Judicial Discipline (under limited conditions)
- Minor Judiciary Education Board
- Pennsylvania Board of Law Examiners
- Disciplinary Board of the Supreme Court (attorneys).

The Court also has exclusive jurisdiction of appeals from Common Pleas Court involving the death penalty. Such cases are automatically appealed to the Supreme Court.

Finally, the Court possesses **extraordinary** jurisdiction to assume jurisdiction of

any case pending before a lower court involving an issue of immediate public importance. This it can do on its own or upon petition from any party and is commonly known as King's Bench power.

As with president judges in lower courts having seven or fewer judges, the chief justice

attains office by virtue of having the longest continuous service among the seven justices.

For a list of Pennsylvania's judges and their jurisdictions, please refer to The Directory 2004, beginning on page 101. AOPC

Before justices, judges and district justices can be appointed or elected to their positions, they must meet certain basic requirements such as citizenship and residency. In addition, all but district justices and Philadelphia Traffic Court judges must be members of the Bar of the Pennsylvania Supreme Court.

Jurists are also subject to strict standards of conduct, and they may be removed, suspended or otherwise disciplined for misconduct in office. Those standards are specified in the Pennsylvania Constitution; the “Code of Judicial Conduct” in the *Pennsylvania Rules of Court*, which applies to appellate and trial court judges; the “Rules of Conduct, Office Standards and Civil Procedures for District Justices”; and such other court rules and orders as have been promulgated by the state Supreme Court.

Judicial elections occur in odd-numbered years. With the exception of the special courts judges, all justices and judges within the Unified Judicial System are elected to ten-year terms. District justices and judges of Philadelphia’s Municipal and Traffic Courts are elected to terms of six years, while judges of Pittsburgh Magistrates Court are appointed by the mayor to four-year terms. Vacancies occurring before an election may be filled by gubernatorial appointment, subject to Senate confirmation, until such time as an election is held.

Judges and justices may serve an unlimited number of terms and are reelected at the pleasure of the electorate. The “merit retention” provision of Pennsylvania’s constitution allows justices and judges to run for reelection on a “yes-no” vote, without ballot reference to political affiliation. This provision was designed to remove judges from the pressures of the political arena once they begin their first terms of office.

Mandatory retirement age for judges is 70 years, but retired judges may, with the approval of the Supreme Court, continue to serve the Commonwealth as senior judges. This service helps ease court backlogs. Effective January 1, 1999, all but senior appellate judges and those senior judges who were sitting before this time may serve as senior judges until December 31 of the year in which they reach the age of 75. Effective January 6, 2003, any senior jurist who began serving prior to January 1, 1999, must retire on December 31 of the year in which he/she turns 80.

AOPC

**Judicial
Qualifications,
Election,
Tenure,
Vacancies**

Administrative Office of Pennsylvania Courts

The Administrative Office of Pennsylvania Courts, also called the Administrative Office and the AOPC, is the administrative arm of the Pennsylvania Supreme Court. It was established in January 1969 following the Constitutional Convention of 1967-68, which defined the Supreme Court's authority for supervision and administration of all state courts.

The Court Administrator of Pennsylvania has been empowered to carry out the Supreme Court's administrative duties and is responsible for assuring that the business of the courts is promptly and properly disposed.

The Administrative Office conducts business from offices in Philadelphia and the Harrisburg area. In addition to the court administrator's office, the departments in Philadelphia include Policy and Research, Legal, and Judicial Services and Court-Related Education. The deputy court administrator's office is located in Mechanicsburg, just south of Harrisburg, and includes Communications/Legislative Affairs, Administrative Services, Payroll and Judicial Security. Also found in Mechanicsburg are the Finance, Human Resources, Judicial Automation and Judicial Education Departments. The Judicial Programs Department (formerly Court Management) has offices at both locations.

The Administrative Office's supervisory, administrative and long-range planning duties include:

- reviewing practices, procedures and efficiency at all levels of the court system and in all related offices
- developing recommendations to the Supreme Court regarding improvement of the system and related offices
- representing the judicial system before legislative bodies
- examining administrative and business methods used by offices in or related to the court system
- collecting statistical data

- examining the state of the dockets and making recommendations for expediting litigation
- managing fiscal affairs, including budget preparation, disbursements approval and goods and services procurement
- overseeing the security of court facilities
- supervising all administrative matters relating to offices engaged in clerical functions
- maintaining personnel records
- conducting education programs for system personnel
- receiving and responding to comments from the public
- publishing an annual report
- providing legal services to system personnel.

A brief description of each unit of the AOPC and its functions follows.

Policy and Research Department

The Administrative Office's Policy and Research Department analyzes and evaluates the operations of the Unified Judicial System's (UJS) various components. During any given year, the department conducts a variety of studies, ranging from caseload management reviews of individual trial courts to statewide evaluations of the safety and security of court facilities.

A core function of the department is to systematically assemble data on the caseloads of county and local courts, including the numbers and types of new, disposed and pending cases, and, for certain case types, the ages of the cases awaiting adjudication. The statistical information is reviewed and periodically verified through audits of county dockets. The Administrative Office annually publishes the data in the *Caseload Statistics of the Unified Judicial System of Pennsylvania*. This report is available from the AOPC page on the UJS Web site at www.courts.state.pa.us.

The Administrative Office uses the statistical information gathered for many purposes, including the monitoring of county court system

operations and development of policy initiatives consistent with its mandate under the Rules of Judicial Administration.

Among the departmental projects recently completed or now in progress are:

- technical enhancements of the statewide system of data collection and reporting
- drafting of new Rule of Judicial Administration 1904, which provides for the uniform recording of medical malpractice information on the civil dockets to facilitate statistical data collection
- design of a medical malpractice Web page for the Unified Judicial System in conjunction with the AOPC Judicial Automation Department. Included on this page are "med mal" statistics, recent changes in the statewide Rules of Civil Procedure governing professional liability actions and a variety of other reference materials and links.
- coordination of a county-by-county data collection of all medical malpractice filings and jury verdicts from 2000 through 2004. The aim is to meet the growing need for empirical information to evaluate rapid statutory and procedural rule changes. The statewide data are posted on the UJS Medical Malpractice Web page. The next data collection will update the numbers through 2005.
- technical support to a panel of Philadelphia civil trial judges in development of a case management educational program for state trial judges. A panel presentation was given in three regional medical malpractice seminars.
- design of interactive caseload statistical reporting on the UJS Web site. Customized Protection from Abuse and criminal statistical reports are now available on-line. Development of additional case type reports is ongoing. The AOPC's Judicial Automation Department developed the software.

- continued support of the Judicial Council's District Justice Security Subcommittee, including development of an incident reporting system and cost/risk reduction studies for security improvements
- development of a Request for Proposal for security training of district justice staff
- analysis of trial court decisional delay based on Rule of Judicial Administration 703, specifically examining cases awaiting decisions for more than twelve months.
- expansion of caseload statistical reporting to include more case types and procedures, such as summary civil jury trials and uniform jury reporting criteria.
- support services to various committees and associations such as the Pennsylvania Association of Court Management and the Mid-Atlantic Association of Court Management
- on-site support for local courts in compiling and analyzing caseload statistics. The department also provides group training to participants in the annual new court administrator's school.

Another responsibility of the department lies in the design of the many forms used in the state court system. The development of new forms and the modification of existing forms require extensive consultation with system personnel, especially those using the forms on a daily basis.

Legal Department

The Legal Department provides advice and counsel to the court administrator of Pennsylvania and to the other units of the Unified Judicial System (UJS) while also assisting in various administrative areas.

Specifically, the chief counsel's staff represent UJS personnel in state and federal

litigation. Representation is not provided in criminal or disciplinary actions. Actions involving UJS personnel often include suits filed in the federal district courts that raise various civil rights and constitutional issues. Typical state court proceedings involving court personnel pertain to petitions for review of governmental actions, petitions to determine the rights and duties of public officials, and appeals.

Other significant activities include:

- active participation in planning and implementing the Judicial Computer System and related statewide court automation programs
- reviewing or negotiating leases and contracts for most of the state court system
- providing legal and administrative assistance and advice to the court administrator of Pennsylvania
- assisting in procurement matters
- reviewing legislation affecting the judiciary.

Judicial Services Department

The Judicial Services Department provides logistical planning, coordination, administration and staffing for an extensive schedule of educational conferences, seminars and meetings for the Supreme Court, the Administrative Office and affiliated groups.

In 2004 the department coordinated seven conferences:

- *Pennsylvania Conference of State Trial Judges Mid-Annual Conference*
February 19-22, 2004
- *Satellite Program: Evidence*
April 20, 21, 27, 28, 2004
- *President Judges/Pennsylvania Association of Court Management Annual Conference*
May 23-26, 2004

- *Satellite Program: Medical Malpractice*
June 9, 10, 2004
- *Pennsylvania Conference of State Trial Judges Annual Conference*
July 22-25, 2004
- *Pennsylvania Association of Court Management Mid-Annual Conference*
November 7-9, 2004
- *Joint Family Law Conference*
November 28-December 1, 2004

Through aggressive negotiation and detailed knowledge of Pennsylvania's hospitality industry, the Judicial Services Department is able to ensure that multi-day conferences proceed effectively under terms which are favorable to the Commonwealth.

Judicial Services also negotiates office space for judicial offices across the Commonwealth, subject to final legal review by the chief counsel's legal staff; maintains and updates all Pennsylvania state department lists; and handles the filing of financial disclosure statements.

Judicial Programs

The Judicial Programs Department mission is to assist court administrators, judges and staff throughout Pennsylvania's 60 judicial districts in ensuring the efficient operation of Pennsylvania's minor and trial courts and to promote the equitable administration of justice throughout the Commonwealth. Judicial Programs provides assistance to the local courts on diverse issues such as financial management, caseload management, personnel, technology and other aspects of managing a complex judicial system. The department will also work closely with the Supreme Court, the Court's rules committees and other departments within the AOPC to assist with implementation of policies, procedures, rule changes and reporting standards. This assistance includes:

- providing information about judicial program development and trends within Pennsylvania and nationally
- reviewing and assessing local court requests for complement level and/or organizational structure changes and other related human resources needs
- collecting, analyzing and disseminating data and information regarding court operations
- establishing standards and procedures for program performance, audits and evaluation
- devising, developing and conducting training and continuing education programs for local court staff
- analyzing the impact of legislation related to judicial operations and devising solutions for implementation of new statutes and statutory changes
- overseeing senior judicial assignments, requests for changes of venue/venire and AOPC communication with judicial districts concerning president judge elections
- developing training, testing and certification of court interpreters
- assisting judicial districts in planning, implementing and maintaining problem-solving courts.

Judicial Automation

The AOPC's Judicial Automation Department is responsible for developing and maintaining case management and other software applications for courts and administrative staff in the Unified Judicial System. This department also provides general technology support to the Supreme Court justices, their staffs and the administrative court staff in Pennsylvania.

The highlights of several important projects undertaken by this department are described below.

Common Pleas Case Management System (CPCMS)

CPCMS is a statewide case management system for Pennsylvania's trial courts that includes docketing, accounting and other important case management functions. The first phase of development covers criminal courts, and it will be used primarily by clerks of courts, court administration and judges and their staffs.

The system produces more than 400 forms and reports, including master account reports. It provides a facility to export report data from the system to other applications such as Excel and Access so that counties can customize the presentation of information, if desired.

During 2004, following the installation of CPCMS in two pilot counties, rollout of the Common Pleas System in an additional 18 counties was completed. In March of 2004, the rollout was temporarily halted to resolve issues that had plagued the system. By November of 2004, the AOPC had completed several significant enhancements to the system and had acquired new, more robust hardware to resolve system performance issues and had undertaken pilot installations of the system in Adams and York counties. The rollout is targeted to begin again in January of 2005.

The system facilitates sharing of important criminal case information such as bail and warrant information statewide. It also uses a data hub to transmit information to and from other state agencies and uses the Pennsylvania Justice Network (JNET) as a data transportation mechanism as well as to present information to other criminal justice agencies.

As a complement to CPCMS, the AOPC developed a Web site to provide both public and secure Web docket sheets. The response to the

electronic availability of these documents has been overwhelmingly positive with 350,000 hits registered in 2004. The secure docket sheets are made available to county court and related criminal justice personnel through use of a secure log-in, personal identification number (PIN) and password. They are also available to law enforcement through JNET.

Pennsylvania Appellate Court Case Management System (PACMS)

The Pennsylvania Appellate Court Case Management System (PACMS) is an integrated case management system designed for Pennsylvania's appellate courts -- Supreme, Superior and Commonwealth.

Over the past year, an interface was added to PACMS that allows the filing offices to create new cases using data from Common Pleas criminal cases (in counties using CPCMS), eliminating the need for redundant data entry. In addition, PACMS information can be electronically transmitted to CPCMS.

Enhancements to PACMS continued, mainly in the form of new and modified system reports.

PACMS staff also developed and continued to maintain the Pennsylvania Board of Law Examiner's Bar Exam Applicant Registry (BEAR) system. This year, data from the system can be transferred into PACMS, eliminating the need for Supreme Court filing office staff to reenter data for bar applicants. At the same time, AOPC staff, working closely with board staff, deployed a Web-based bar applicant system that allows bar applicants to complete applications and submit them electronically to the board. In 2004 approximately 1195 applications were being processed or were approved on-line.

PACMS staff also were tasked with developing an enhanced local rules Web site that will

provide expanded search capability. This site was released in July 2004, using the newly required civil motions practice local rules to populate the system. Most counties have posted their local rules on the site, and plans are being discussed to expand use of the site into other areas.

Administrative Support Application Project (ASAP)

ASAP is a software application that was developed in-house at the AOPC to support the administrative functions of the appellate courts, AOPC and First Judicial District. The system includes payroll, human resources and finance modules.

In 2004 ASAP staff continued to maintain and enhance the system. The AOPC Connected Web site was expanded to include an on-line emergency contact information form. In addition, several payroll forms were added to the site.

District Justice System (DJS)

The District Justice System provides case management and accounting functions to all district justices and their staffs statewide, approximately 3,500 users. The system has been in place since 1992 and generates all forms needed for civil, criminal and traffic case processing.

In 2004 DJS trainers conducted regional training workshops at 44 locations throughout the state. The trainers also released a Web-based District Justice Office Clerical Procedures Manual, which eliminates the need to produce expensive printed manuals that must be frequently updated.

The consolidation of 31 regional AS/400 servers was completed this year, and the AOPC contracted to replace all printers in the district courts in the first half of 2005.

The DJS staff completed a major project, centralizing the maintenance of all case participant information in the DJS, specifically arresting agencies, counties and municipalities. This project eliminated many instances of duplicate and incorrect data in the DJS and will result in more efficient case processing.

Web Development

Over the past year, the Web Development group at the AOPC completed several new initiatives, including a medical malpractice Web page, designed to provide "one-stop" judicial medical malpractice information.

Also, a pilot security incident reporting system for district justices was developed and piloted in Allegheny, Montgomery, Blair and Bucks counties. This system is scheduled to be released to all district justice courts in 2005 and is a result of the work being done by the Pennsylvania Supreme Court's Judicial Council Subcommittee on Judicial Security.

Systems Support

AOPC systems support staff continued to support and maintain hardware and telecommunications systems required for various AOPC case management systems and office automation functions.

Deputy Court Administrator's Office

Communications/Legislative Affairs

In its role as both legislative and media liaison, the Office of Communications and Legislative Affairs represents the AOPC before the state's executive and legislative branches of government as well as to the media. As media liaison, staff field inquiries from reporters, draft press releases, publish the AOPC annual report,

develop other publications and set up press conferences.

The office also monitors the progress of legislation in the General Assembly; compiles and publishes a legislative summary when the General Assembly is in session; and, when appropriate, comments on the effect legislation may have on the fiscal and administrative operations of the judicial system. With the computerization of district justice offices, staff also monitor and report on legislation that may necessitate changes to the district justice software programs.

Judicial Security

The goal of Judicial Security is to make every state court facility in Pennsylvania a safe place for litigants and their families, jurors, witnesses, victims of crime and the general public to conduct their business.

The unit traces its origins to an in-house study conducted in 1999 which broke new ground in understanding the nature of threats to state jurists. The results of the study, which were eventually published in two national journals, highlighted a strong need to address judicial security.

The Committee on Judicial Safety and Preparedness, established by the Judicial Council following publication of the survey, carried out further study and consulted with experts, including the Secret Service; the Bureau of Alcohol, Tobacco and Firearms; the Pennsylvania State Police; sheriffs and private consultants. This led to the formation of the Judicial Security unit in late 2002.

The initial efforts of Judicial Security have been aimed at district courts. In fiscal year 2004-05 the AOPC was granted appropriations to be used for duress alarms, surveillance cameras, shatterproof glass for transaction counters and providing a means to secure in-custody defendants. Funds were also used to train local court staff in best practices in security, personal safety and conflict resolution.

Other projects included

- development of a security manual of recommended practices, procedures and guidelines for use by local courts
- development of an incident reporting system to better capture data on security incidents
- formation of local court security committees to ensure sustained interest and support at the local level.

Administrative Services

Administrative Services oversees a variety of administrative-related tasks, including procurement for the Administrative Office and for Philadelphia courts under the First Judicial District/AOPC Procurement Unit. It handles all issues relating to facility management, fixed asset control, mail and messenger services and vehicle management. It also provides support to many UJS agencies in a variety of ways.

Payroll

The Payroll Unit administers the monthly, biweekly and supplemental payrolls for more than 1,600 jurists and staff. Together with the Human Resources Unit, it also orients and answers any questions new employees may have as the employees become members of the judiciary staff.

Judicial Education

The Judicial Education Department was formed in early 2004 to meet the need of providing continuing education to Pennsylvania's jurists. It's efforts in 2004 included:

- completing a preliminary needs assessment for judicial education in Pennsylvania. Distance learning and individualized education opportunities were identified as growth areas.

- completing a preliminary needs assessment for staff support
- completing a proposal to create a curriculum committee as a standing committee of the Supreme Court. The purpose of the committee would be to develop and articulate a formal judicial education curriculum for state judges.
- identifying and undertaking regional and national networking and conferencing opportunities
- developing and presenting to state trial judges a seminar on medical malpractice adjudication
- assisting the Education Committee of the Pennsylvania Conference of State Trial Judges (PCSTJ) in the development of the conference's mid-annual meeting
- developing a judicial education Web portal designed to consolidate and disseminate continuing judicial education resources for state trial judges
- creating a conference speakers' information booklet
- developing a conference-planning protocol for use with the PCSTJ's annual and mid-annual conferences
- creating a strategic plan for future developments in continuing judicial education
- developing conference assessment strategies and tools
- instituting training for the Education Committee.
- maintains all UJS fringe benefit programs and counsels judiciary personnel regarding their provisions and utilization
- administers the UJS employee leave accounting program and the UJS Unemployment Compensation and Workers Compensation programs
- formulates and administers the personnel policies and procedures that govern the personnel operations of the UJS
- assists managers in the recruiting, interviewing and hiring of new staff and develops and administers AOPC hiring procedures
- administers uniform classification and pay plans for the UJS
- develops training curriculum, policies and procedures for judiciary personnel.

Human Resources

The Department of Human Resources

- monitors and ensures UJS compliance with state and federal employment statutes

Finance

The Finance Department is responsible for managing all budgets, accounting and the accounting system for the Unified Judicial System. It serves as the primary resource to the various components comprising the UJS regarding financial matters. It fulfills its responsibility through the following activities:

- developing necessary policies and procedures on accounting and budget issues, and training staff at all levels in their use
- monitoring and preparing the budget for some 35 UJS line items in the Commonwealth's annual budget. These line-item appropriations include not only the funding for the Administrative Office, but for all of the state-funded courts, most Supreme Court advisory procedural rules committees, juror cost reimbursements, and county court reimbursements. Finance staff develop budget materials for the justices and court administrator of Pennsylvania, including

briefing materials used for hearings before the legislative appropriations committees. Staff monitor budget trends, maintain communications and regular reporting to the various legislative and executive branch agencies as required by law and tradition, and participate in budget hearings as required.

- managing \$306.1 million in annual appropriations, including \$34.5 million in grants to counties
- participating in the annual financial audit of the UJS
- serving as the central clearinghouse for all financial transactions impacting the judiciary
- overseeing the finances of the First Judicial District/AOPC Procurement Unit, including recommending investment and banking strategy. The procurement unit, created by

and operating under an agreement between the Administrative Office and Philadelphia City government, was established to improve the procurement function in Philadelphia's three courts. Since the agreement was put into effect, the First Judicial District has realized significant savings through efficiencies in its procurement function

- undertaking special projects, as requested and upon its own initiative, to develop financial information regarding cost trends, comparative analyses and the like. Such information includes analyses of legislation for fiscal impact routinely requested by the both the legislative and executive branches.
 - responding to questions and providing information on the judiciary's financial operations as needed to the legislature, the executive branch, other judiciary employees and the public.
- AOPC

2004 Membership:

Honorable Joseph A. Hudock, *Chair*
Honorable Thomas A. Wallitsch, *Vice Chair*
William P. Bresnahan, Esq.*
William P. Bresnahan, II, Esq.**
Frederick N. Frank, Esq.*
Abraham J. Gafni, Esq.++
Honorable Jane Cutler Greenspan
Charles E. Gutshall, Esq.+
James C. Haggerty, Esq.
Sarah V. Hart, Esq.
James J. Kutz, Esq.
Bridget E. Montgomery, Esq.*
Andrew M. Ominsky, Esq.
Sunah Park, Esq.
Paul W. Roman, Esq.
Alison Taylor, Esq.
Kevin H. Wright, Esq.#

Staff:

Dean R. Phillips, Esq., *Counsel*
Rebecca M. Darr, Esq., *Deputy Counsel*
Elizabeth J. Knott, *Administrative Assistant*

- * Term expired 6-30-04
- ** Effective 6-30-04
- + Resigned 10-04
- ++ Effective 10-6-04
- # Effective 11-3-04

Legal Authorization:

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

About the Committee

The principle function of the Appellate Court Procedural Rules Committee is to make recommendations to the Supreme Court for refining and updating the Rules of Appellate Procedure in light of experience, developing case law and new legislation.

Appellate

Court

Procedural

Rules

Committee

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Index/SupCtCmtes/
AppCtRulesCmte/
IndexAppCtRulesCmte.
asp

2004 Activities

The following recommendations were adopted by the to the Supreme Court in 2004:

Recommendation 2 of 2004 (Internal Recommendation 47) relating to *Thermoguard v. Cochran*, 596 A.2d 188 (Pa. Super. 1991): Proposed adoption of new Pa.R.A.P. 1316 (**Incorrect Use of Petition for Permission to Appeal or Petition for Review**). Submitted 3-12-03; adopted 12-8-04.

Recommendation 4 of 2004 (Internal Recommendation 57): Proposed amendment to subdivision (a) of Pa.R.A.P. 2111 to reflect that the order or other determination in question should immediately follow the **statement of jurisdiction** as set forth in Pa.R.A.P. 2115. Submitted 8-23-04; adopted 10-15-04.

Recommendation 5 of 2004 (Internal Recommendation 59): Proposed amendment of Pa.R.A.P. 1512 (**Time for Petitioning for Review**). Submitted 8-23-04; adopted 9-30-04.

Recommendation 6 of 2003 (Internal Recommendation 36): Proposed adoption of Pa.R.A.P. 120 (**Entry of Appearance**) and 1703 (**Contents of Application for Stay**) and amendment to the Notes to Pa.R.A.P. 121, 907, 1112, 1311 and 1514. Submitted 4-14-03; adopted on 3-15-04.

Recommendation 8 of 2003 (Internal Recommendation 54): Proposed amendment to Pa.R.A.P. 2117 (**Statement of the Case**). Submitted 11-18-03; adopted 2-19-04.

Recommendation 9 of 2003 (Internal Recommendation 53): Proposed amendment to Pa.R.A.P. 1931 (**Transmission of the Record**). Submitted 11-18-03; adopted 4-1-04.

Recommendation 10 of 2003 (Internal Recommendation 50): Proposed amendments to Pa.R.A.P. Chapter 15 (**Judicial Review of**

Governmental Determinations). Submitted 12-3-03; adopted 7-8-04.

Recommendation 11 of 2003 (Internal Recommendation 52): Proposed amendments to Pa.R.A.P. 1762 (**Release in Criminal Matters**) and 3331 (**Review of Special Prosecutions or Investigations**). Submitted 12-3-03; adopted 7-8-04.

2005 Plans

Among the subjects on the committee's agenda for 2005 are the following:

- a proposed amendment to the Note to Pa.R.A.P. 311 referencing *Nationwide Mutual Insurance Company v. Wickett*, 763 A.2d 813 (Pa. 2000) and progeny, with regard to the potential "waiver trap" appeal problem that exists in declaratory judgment actions
- a joint recommendation with the Orphans' Court Procedural Rules Committee seeking to amend Pa.R.A.P. 342 and 311 concerning the immediate appeal of a determination of the validity of a will or trust
- an amendment to the rules to change references from "*decree nisi*" to "decision" based on the recent abolition of equity practice in the civil rules
- a potential amendment to the rules to permit some commercial carriers, such as Fed Ex or DHL, to be qualified as proper service
- a potential amendment of Pa.R.A.P. 903(a) in order to preclude any conflict with Pa.R. Crim.P. 720(A)(1)
- discussions regarding the interplay between Chapter 17 of the appellate rules and the Pennsylvania Probate, Estates and Fiduciaries Code, 20 Pa.C.S.A. §101 *et seq.* **AOPC**

2004 Membership:

Gregory E. Dunlap, Esq., *Chair*
Michael W. King, Esq., *Vice Chair*
Patti S. Bednarik, Esq.
Karen Engro, Esq.
Gregory P. Miller, Esq.
Samuel H. Pond, Esq.
William R. Sasso, Esq.

Staff:

Mark S. Dows, *Executive Director*
Joseph S. Rengert, Esq., *Counsel and Supervising Law Examiner*
Jill E. Fuchs, *Deputy Executive Director*
Brenda K. Kovanic, *Director of Testing*

Legal Authorization:

Pa. Constitution Article V, § 10(c)
Pa.B.A.R. 104 (c) (3)

About the Board

The Pennsylvania Board of Law Examiners holds the responsibility for recommending the admission of persons to the bar and thus the practice of law in Pennsylvania. Such responsibility includes reviewing admission applications, both for those wishing to sit for the bar examination and for those practicing attorneys from other states seeking admittance to the bar without sitting for the exam; administering the bar exam itself; and recommending rules pertaining to admission to the bar and the practice of law.

Members are appointed to three-year terms, and each member may serve two consecutive terms. Board office staff includes the executive director, counsel to the board/supervising law examiner, an executive assistant and six administrative support staff. The board also employs seven examiners, who are responsible for writing and grading the Pennsylvania Bar Essay Examination, and 14 readers, who assist the examiners in grading the essay answers. Additionally, many proctors are employed temporarily to assist in the administration of the bar exam.

Board

of

Law

Examiners

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www.pabarexam.org

Bar Procedures

The Board of Law Examiners administers Pennsylvania's bar exam over two days twice a year, on the last Tuesdays and Wednesdays in February and July. In February the exam is held in King of Prussia and Pittsburgh. In July it is held in King of Prussia, Pittsburgh and Harrisburg.

The exam comprises two parts, an essay section, which is administered the first day, and the multiple choice Multistate Bar Examination (MBE), which is administered the second day.

The essay portion of the exam includes seven questions developed by the examiners and approved by the board, including one performance test (PT) question. The subject matter covers a variety of subjects, and applicants are expected to demonstrate their knowledge of Pennsylvania law where applicable.

The PT question tests an applicant's ability to use fundamental lawyering skills in a realistic situation. Some of the tasks an applicant might be required to complete in responding to a question include writing a memorandum to a supervising attorney, a letter to a client, a persuasive memorandum or brief, a statement of facts, a contract provision, a will, a counseling plan, a proposal for settlement, an agreement, a discovery plan, a witness examination plan or a closing argument. It is weighted at one and a half times an essay question and is combined with the scores for the remaining six questions. Applicants have 90 minutes to complete one PT question.

The MBE is a national exam, prepared by the National Conference of Bar Examiners in conjunction with American College Testing (ACT). Its 200 questions are not Pennsylvania specific and cover contracts, criminal law, constitutional law, real property, evidence and torts.

Successful applicants for admission to the bar must attain a total combined scaled score of at least 272 with the essay portion weighted 55 percent and the MBE portion

weighted 45 percent. In addition, applicants must also score at least 75 on the Multistate Professional Responsibility Examination (MPRE).

The MPRE is a standardized test used to demonstrate an applicant's knowledge of the professional responsibility and ethical obligations of the legal profession. Applicants may take it at any point during law school or their legal careers prior to taking the bar exam. Indeed, they are encouraged to take it while in law school, shortly after they have completed a course on professional responsibility or ethics. They do, however, have up to three months after sitting for the bar exam to take it.

If an applicant is not successful on the MPRE within six months from the date results are released for the bar exam for which he/she sat, he/she will be required to submit to the board an Application for Supplemental Statement and for Character and Fitness as required under Pa.B.A.R. 231. This supplemental application process requires a character and fitness review and may take up to six months or longer to complete.

If an applicant is not successful on the MPRE within three years of the date his/her successful bar exam results were released, he/she must reapply for permission to sit for the bar exam, successfully retake it and meet all of the requirements at that time.

Grading the Bar Exam

At the conclusion of each bar exam, board staff send copies of the essay questions (including the PT question), the examiners' proposed analyses and the grading guidelines to representatives from each of the Commonwealth's law schools. The representatives circulate the questions and analyses to the respective professors who teach the subject material covered by the questions and solicit comments and suggestions from each. These comments and suggestions are then shared with the examiners and the board. The examiners

use this feedback to revise their analyses and grading guidelines in order to grade the applicants' essay answers in the fairest and most equitable manner possible.

The final draft of each question and analysis is forwarded to the board office, which then formats, edits and publishes it. Many unsuccessful applicants obtain copies of the questions and analyses along with copies of their own answers.

Rereads are automatically conducted for all applicants receiving a combined score of six points or less below passing, (i.e., 266-271).

The MBE is graded by ACT.

The most recent results of the bar exam can be found on the Board of Law Examiners home page at www.pabarexam.org.

Application Approval/Denial and Hearing Process

In addition to passing the bar exam, prospective members of Pennsylvania's bar must meet certain requirements relating to character and prior conduct. To aid the board in determining whether applicants have met such requirements, a candidate must file with the board office a written application setting forth those matters the board deems necessary. This includes background information pertaining to character, education and employment. Board office staff then review the applications, occasionally investigating further, to determine an applicant's fitness and qualifications.

If, upon initial review, the board's executive director finds that the applicant does not appear to possess the fitness and general qualifications requisite for a member of the bar, the applicant is notified in writing. Unless the denial was for scholastic reasons, the applicant then has 30 days to request a hearing appealing the denial. Present at the hearing are the applicant; the applicant's counsel, if he/she has retained counsel; and a board member who

serves as the hearing officer. A stenographer is also present to record the hearing.

Only one applicant is considered at a hearing, and only applicants who are denied permission to sit for a bar examination or certification recommending admission may request one.

Approximately 20 hearings were held in 2004.

2004 Statistics

Statistics for 2004, including a comparison with 2003's figures, can be found in Table 3.2.1 on page 34. Chart 3.2.2 on page 35 details the percentage of those passing the bar since 1995 while Chart 3.2.3 on page 36 is a comparison of the number of persons who have sat for the exam versus the number who have passed it over the past ten years. In addition, office staff processed approximately 200 applications for admission on motion and for character and fitness determination.

2004 Activities

The board met seven times in 2004 to review bar admission rules and recommend rule changes, review proposed essay questions and analyses, approve examination results, and set policy. It also held two semi-annual meetings, one following each of the two bar examinations, to review the essay exam questions, analyses and proposed grading guidelines.

Recommendations to the Supreme Court

Recommendation No. 1: Proposed adoption of Pa.B.A.R. 302 to require **in-house counsel** who are providing legal services in Pennsylvania solely to the business entity by which they are employed, to obtain limited licenses to engage in such practice, if they are not fully admitted to the Pennsylvania bar. Adopted 3-30-04, effective 9-26-04.

Recommendation No. 2: Proposed amendment to Pa.B.A.R. 204 to require that as one of the conditions for being **admitted to the bar on motion**, an attorney either have been licensed in a reciprocal jurisdiction by examination or have performed legal services in a reciprocal jurisdiction for five of the previous seven years. Adopted 3-30-04, effective 9-26-04.

Recommendation No. 3: Proposed adoption of Pa.B.A.R. 303, to permit **military attorneys** who are licensed in another jurisdiction to represent military members and their dependents in civil matters pending in courts of this Commonwealth when the military member cannot afford legal services without undue hardship. Adopted 6-2-04, effective immediately.

Recommendation No. 4: Proposed adoption of Pa.B.A.R. 341 and 342 to permit an attorney who is licensed in a foreign country to obtain a limited license to practice as a **foreign legal consultant**, which, subject to certain enumerated exceptions, permits the attorney to render legal services in Pennsylvania solely with respect to the law of the foreign country in which he/she is licensed. Pending with Court.

Recommendation No. 5: Proposed amendment to Pa.B.A.R. 402 to permit the board to **release information** concerning applicants to other attorney licensing and disciplinary entities and in other limited situations where the release of the information is in the interest of the applicant or the public. Pending with Court.

On-line Bar Applications

For the first time in August 2004, applicants were able to complete and submit their bar applications electronically. This state-of-the-art application, designed and developed by AOPC's computer staff, was the first one of its kind in the country. Applicants were able to complete their applications on-line, then access their personal information using log-ins and passwords. This process has greatly reduced

the amount of data entry and has resulted in the elimination of one clerical position.

Admission applications		approx. 3,000
Sitting for February exam		689
Change from 2003	23	3.45%
Persons passing February exam		355
Persons failing February exam		334
Passing Percentage		52%
2003 Passing Percentage		51%
Sitting for July exam		2,044
Change from 2003	35	1.74%
Persons passing July exam		1,498
Persons failing July exam		546
Passing percentage		73%
2003 Passing Percentage		72%

Table 3.2.1

Electronic Grading of the Essay Examination

A pilot program to allow the electronic grading of the essay portion of the bar exam was implemented for the February 2004 exam with three graders using touch screen laptop computers. The remaining 18 graders began using the program in July 2004. Graders touch the screen to give an applicant points for a particular issue. The points are automatically totaled and electronically submitted to the board office. This program has enabled the law examiners board to release examination results in a more timely manner while maintaining the highest level of accuracy and efficiency.

Filing Fees

The filing fees charged for processing applications in 2004 are as follows:

- \$500 first-time filing fee
- \$650 late first filing fee
- \$950 second late filing fee
- \$1,350 final filing fee
- \$1,000 for admission on motion. AOPC

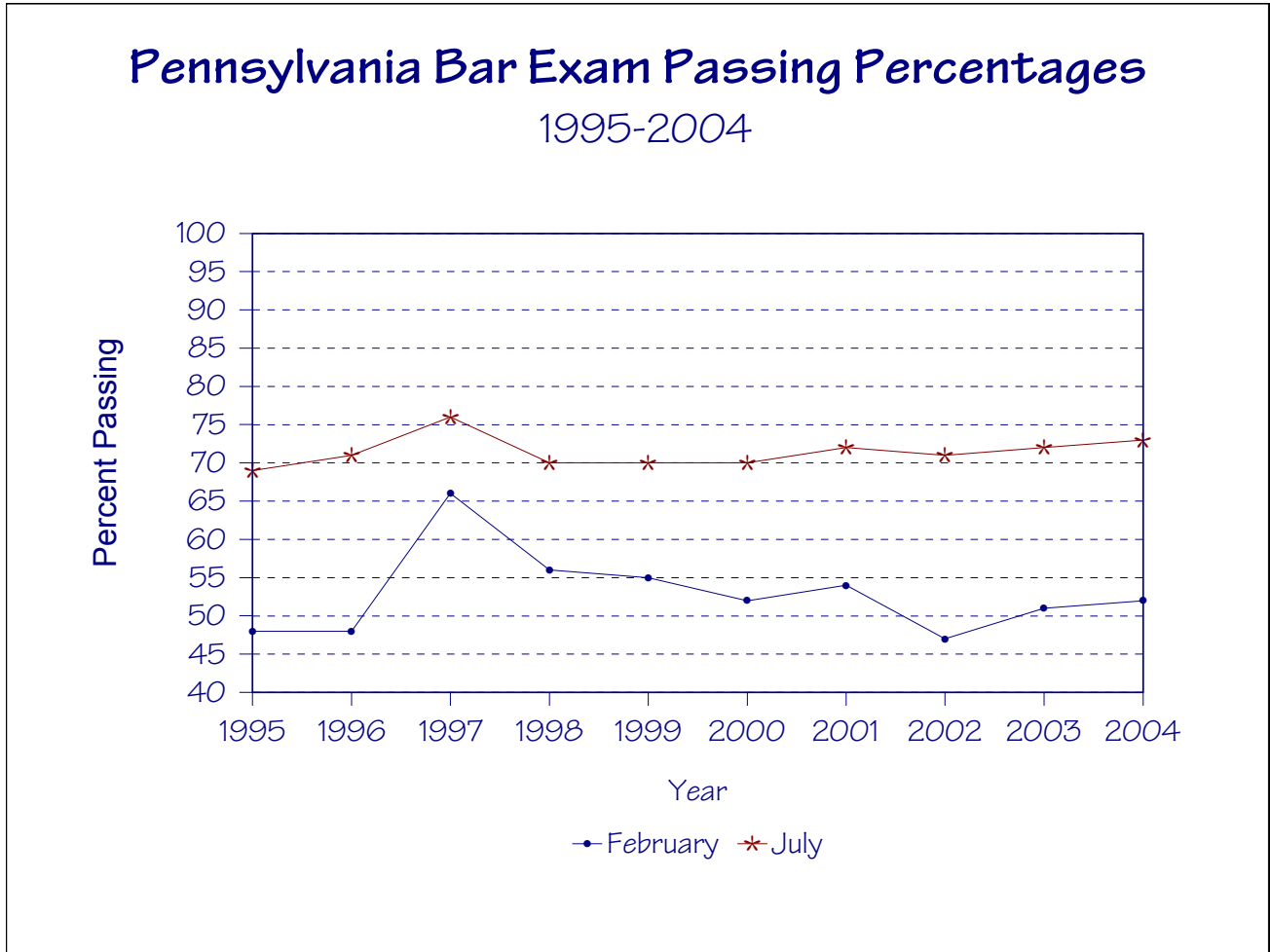


Table 3.2.2

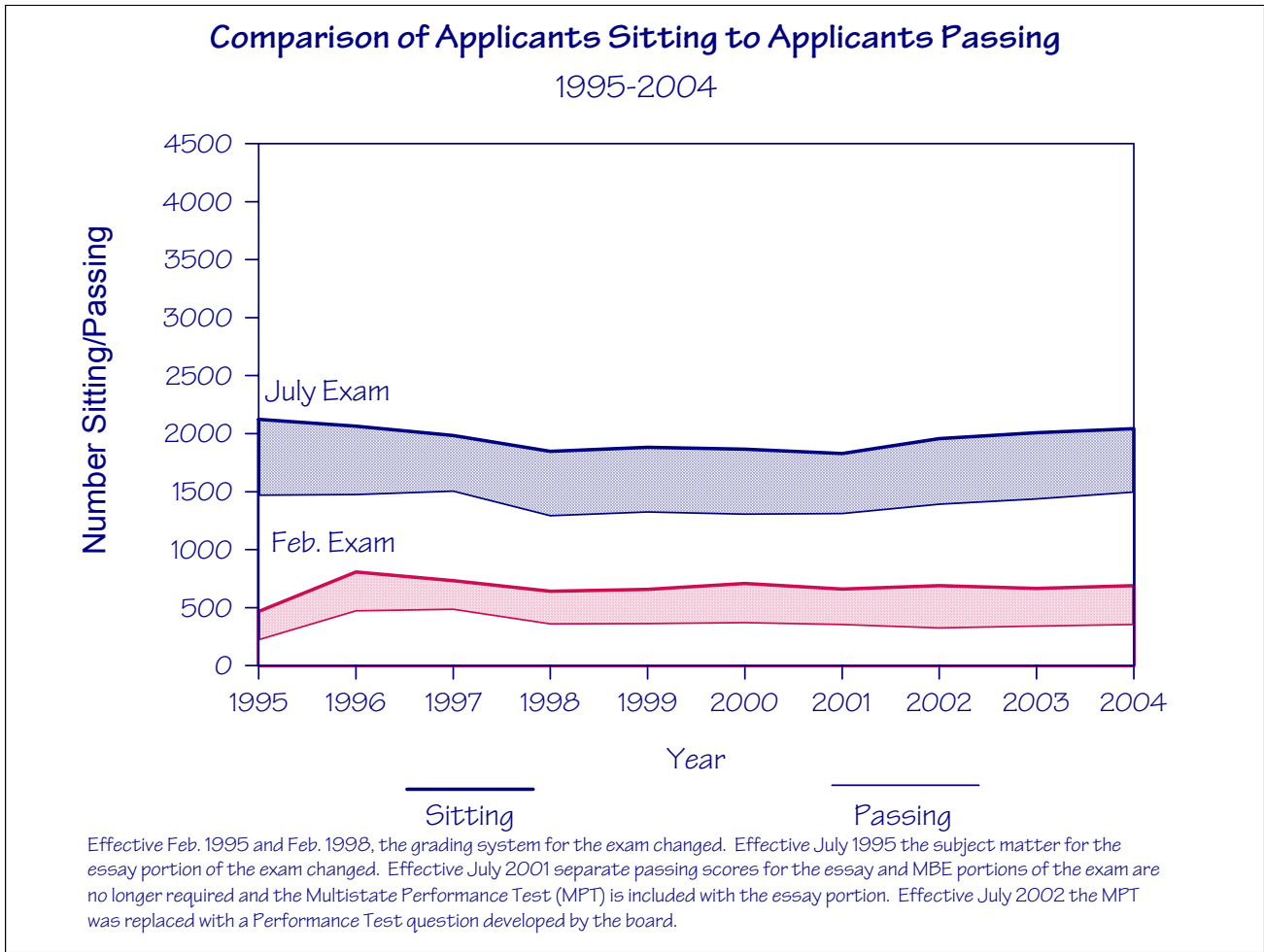


Table 3.2.3

2004 Membership:

Honorable R. Stanton Wettick, Jr., *Chair*
Joseph H. Foster, Esq., *Vice Chair*

C. Lee Anderson, Esq.
Mark A. Aronchick, Esq.*
Morton R. Branzburg, Esq.
Nancy H. Fullam, Esq.
Heather S. Heidelbaugh, Esq.
Honorable George E. Hoffer
H. Paul Kester, Esq., *ex officio*
Honorable Stewart L. Kurtz
Honorable William J. Manfredi
Darlene A. Marquette, Esq.
Howard F. Messer, Esq.
Edward G. O'Connor, Esq.*
Anton Henri Rosenthal, Esq.
Robert Ross, Esq.
Thomas A. Sprague, Esq.*
Andrew J. Stern, Esq.
Arthur H. Stroyd, Jr., Esq.
Clayton A. Sweeney, Esq.
Kevin H. Wright, Esq.

Staff:

Harold K. Don, Jr., Esq., *Counsel*
Karla M. Shultz, Esq., *Research Assistant*
Elizabeth J. Knott, *Administrative Assistant*

* Term expired 6-30-04

Legal Authorization:

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

About the Committee:

The Civil Procedural Rules Committee sets the rules of procedure and practice for civil actions in Pennsylvania's Courts of Common Pleas. This includes all aspects of civil matters, except those issues relating to the work of the orphans' court and family court divisions. It was first commissioned by the Supreme Court in 1937.

Committee members are appointed to three-year terms by the Court and each may serve a maximum of two full terms.

Civil

Procedural

Rules

Committee

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CivilRulesCmte/
Indexcivilrules.asp](http://www.courts.state.pa.us/Index/SupCtCmtes/CivilRulesCmte/Indexcivilrules.asp)

Civil Rules On-line

The Rules of Civil Procedure governing motion and petition practice are now available on-line on the UJS Portal Web page at <http://ujsportal.pacourts.us/Rules/RulesSelection.aspx>. Local rules authorized by these statewide rules are also available. The page has searching capability, allowing a user to determine if a particular county has a local rule governing a specific aspect of motion or petition practice.

2004 Activities

The committee held three meetings in 2004 as follows:

March	Philadelphia
June	Pittsburgh
October	Philadelphia

2004 Amendments to the Rules of Civil Procedure

Descriptions of the various recommended rule changes are described below and are listed in the Status of Recommendations chart that follows this report.

Recommendations Promulgated by the Supreme Court

The following recommendations were promulgated in 2003 with effective dates in 2004:

Recommendation No. 174: Judgment Liens and Revival of Judgment Liens Rules 3025-3049 were promulgated in 1964 to provide the procedure in reviving and continuing the lien of a judgment. The note to Rule 3025 referred to the Judgment Lien Law of 1947. The Judgment Lien Law, however, was repealed by the Judiciary Act Repealer Act (JARA) in 1978, and

no successor provisions were enacted. The 1947 act thus disappeared from *Purdon's Pennsylvania Statutes*. Unless the superseded volumes of former Title 12 were retained, the Judgment Lien Law became unavailable to the legal community. Yet as no general rules had been promulgated to replace the repealed act, the Judgment Lien Law continued as part of the common law of the Commonwealth under the fail-safe provision of JARA, 42 P.S., § 20003(b).

Recommendation No. 174 amends the rules of civil procedure to fill the void left by the repeal of the Judgment Lien Law. It is the last of the major projects arising from the enactment of JARA.

In addition, a new chapter of rules, numbered 3020-3023, was added to govern judgment liens. Rules 3025 *et seq.*, governing the revival of judgment liens was substantially amended to include the substantive as well as procedural law governing the creation and continuing of judgment liens.

Promulgated 12-16-03, effective 7-1-04.

Recommendation No. 180: Consolidation of the Action in Equity with the Civil Action Abolishes the separate action in equity by amending the rules governing the civil action to include equitable relief. This was done as many cases are not solely actions at law or actions in equity, but actions in which relief both equitable and legal is sought. Promulgated 12-16-03, effective 7-1-04.

Rule 208.1 et seq.: Motion Practice New rules and amendments governing motion and petition practice to provide consistency amongst the various Courts of Common Pleas. The new rules define and establish the scope of a motion, provide basic requirements with respect to the form and content of a motion and set forth procedures for the court in determining a motion. Promulgated 10-25-03, effective 7-24-04.

The Supreme Court promulgated the following recommendations in 2004:

Recommendation No. 186: Delivery of Settlement Funds New Rule 229.1 provides a procedure for the imposition of sanctions when settlement funds are not promptly delivered, (i.e., within 20 calendar days of receipt of an executed release). While the rule provides a standard for the delivery of settlement funds and a procedure for sanctions when the defendant does not comply with the standard, it also allows the parties to agree in writing to modify or waive any of the rule's provisions. Promulgated 6-7-04, effective 7-1-04.

Recommendation No. 191: Post-Trial Practice Amendment of Rule 227.1(b) to eliminate a conflict with Pennsylvania Rule of Evidence (Pa.R.E.) 103(a). Rule 227.1, promulgated in its present form in 1983, provided, without exception, that post-trial relief may not be granted unless the grounds, if then available, were raised in pre-trial proceedings or at trial. Pa.R.E. 103(a), promulgated in 1998, however, eliminated the requirement of an objection stating the specific ground of objection or an offer of proof making known the substance of the evidence offered, in the circumstance where the specific ground or the substance of the evidence is apparent from the context. Promulgated 7-21-04, effective immediately.

Recommendation No. 192: Local Rules Amendments to Rules 239 and 239.8 to provide that local rules governing motion practice must be published on the UJS Web Application Portal and will be effective and enforceable when so published. Publication of these rules in the *Pennsylvania Bulletin* is no longer required. Promulgated 6-30-04, effective immediately.

Recommendation No. 193: Technical Amendments Technical amendments to various rules of civil procedure governing the civil action, judgment liens and revival of judgments, and motion practice. These amendments were perfunctory in nature and did not alter practice or procedure. Promulgated 10-15-04, effective immediately.

Recommendation No. 194: Confession of Judgment Adds new subdivision (g) to Rule

2959 governing relief from a judgment by confession. The new subdivision prohibits a court from striking or opening a judgment because a creditor fails to provide a debtor with instructions imposed by any existing statutes regarding procedures to follow to strike a judgment or regarding any rights available to an incorrectly identified debtor. The purpose of the amendment is to eliminate as grounds for relief from a confessed judgment statutory notice provisions which conflict with the rules of civil procedure and thus place at risk current judgments entered by confession. Promulgated 9-28-04, effective immediately.

Recommendation No. 195: Limitation on Scope of Discovery Section 5949 of the Judicial Code provides, with specified exceptions, that all mediation communications and documents are privileged. Rule 4011 was amended to implement that section by adding new subparagraph (d) providing that discovery, including a deposition, is not permitted if it is prohibited by any law barring disclosure of mediation communications and documents. Promulgated 8-20-04, effective 10-1-04.

Recommendation No. 199: Caption of Pleadings The Administrative Office of Pennsylvania Courts (AOPC) is statutorily obligated to gather statistical information concerning medical professional liability actions. In 2004 the Supreme Court promulgated new Rule of Judicial Administration 1904 in furtherance of this obligation. New Rule of Civil Procedure 1042.16 provides an additional tool to the AOPC in identifying medical professional liability actions by providing that the captions or cover sheets of legal papers filed in such actions must contain the designation "Civil Action - Medical Professional Liability Action." Promulgated 12-27-04, effective immediately.

Medical Professional Liability Actions

In June 2003 the governor of Pennsylvania issued a Plan for Medical Malpractice Liability Reform, which requested that the Supreme Court take certain actions. In

response, the Supreme Court created the Ad Hoc Medical Malpractice Committee to review the plan as it related to the judiciary. (The chair of the Civil Procedural Rules Committee, the Honorable R. Stanton Wettick, Jr., was named chair of the committee.)

The committee, in consultation with the Civil Procedural Rules Committee, developed several rules governing pre-trial practice and noneconomic loss.

Rules Governing Pre-Trial Practice New Rules 1042.21, 1042.26-1042.38, 1042.41 and 1042.51 set forth procedures which are designed to speed up settlements, resolutions of meritless cases and trials. Rule 1042.21 provides a mechanism for a health care provider to obtain a settlement conference and court-ordered mediation early in the proceedings, prior to the exchange of expert reports. Rules 1042.26 *et seq.* provide schedules for the parties to serve requests for expert reports and set forth forms for the requests. Pursuant to Rule 1042.41, parties may request a scheduling order, and any scheduling order entered by the court must include schedules for the completion of discovery and the production of expert reports. Rule 1042.51 governs requests for pre-trial conferences. Promulgated 3-29-04, effective immediately.

Note: Rules 1042.26(b) and 1042.41(c) provide that the rules governing the exchange of expert reports and the scheduling order do not apply to counties already managing medical malpractice actions.

Rules Governing Noneconomic Loss New Rule 223.3 provides a jury instruction to be given by the court where a claim is made for damages for noneconomic loss. The rule is of broader application than to medical professional liability actions alone, applying to all actions for bodily injury and death. Promulgated 8-20-04, effective 12-1-04.

New Rule 1042.71 implements Section 509(a) of the Mcare Act, requiring the trier of

fact to make a determination with separate findings for each plaintiff, specifying the amount of past damages and future damages for medical and other related expenses, loss of earnings and noneconomic loss. Promulgated 8-20-04, effective 12-1-04.

New Rule 1042.72 provides that a defendant may include in a motion for post-trial relief under Rule 227.1 the ground that the damage award for noneconomic loss is excessive. The rule defines what is considered excessive and sets procedures for if an award is found to be excessive. Promulgated 9-17-04, effective 12-1-04.

Note: The promulgation of new Rule 1042.72 supplants proposed Recommendation No. 189 relating to proceedings under Section 515 of the Mcare Act, No. 13 of 2002, 40 P.S. § 1303.515, relating to remittitur in medical professional liability actions

Recommendations Pending

The following recommendations remain pending before the committee or the Supreme Court:

Recommendation No. 188: Joinder of an Additional Defendant Amendment of Rule 2253 governing the time for joinder of an additional defendant. The amendment would clarify the application of the cause shown standard to a proposed joinder which is beyond the 60-day period for joinder as of right.

Recommendation No. 190: Wage Attachment in Residential Landlord-Tenant Actions Proposes to add a new chapter of rules, 3301 *et seq.*, to govern the attachment of wages, salary and commissions pursuant to Section 8127(a)(3.1) of the Judicial Code in actions or proceedings for amounts awarded to a judgment creditor-landlord arising out of a residential lease. The proposed rules balance the interests of the landlord (plaintiff), tenant (defendant) and employer garnishee.

Recommendation No. 197: Scope and Citation of Rules Amendment of Rule 51 to make clear that the rules of civil procedure do not govern actions and proceedings in magisterial district judge courts.

Recommendation No. 198: Rescission of Rule 223.2(e), Juror Note-Taking Rule 223.2 governing note-taking by jurors in civil cases was promulgated in 2003 as a temporary rule to determine if note-taking was beneficial to the judicial system. Recommendation No. 198 rescinds subdivision (e) of the rule, the sunset provision, thereby making the rule permanent.

Recommendation No. 200: Certificate of Merit Rule 1042.3(a)(2) governs claims in a professional liability action that the defendant deviated from an acceptable professional standard based solely on allegations that other licensed professionals for whom this defendant is responsible so deviated. The note to the rule was intended to explain that the rule requires the filing of only a single certificate of merit as to a claim against a defendant that is based on the activities of licensed professionals who are not named defendants in the action. Recommendation 200

revises the note to clarify that there is no requirement that the licensed professional supplying the statement that serves as the basis for the certificate specifically identify the other professionals who deviated.

Recommendation No. 201: Arbitration Awards in Consumer Credit Transactions Proposal to add a new chapter of rules, 1326 *et seq.*, governing proceedings to compel arbitration and to confirm the award of arbitrators. The rules are limited to court proceedings where the arbitration arises from a consumer credit transaction and is a common law or statutory arbitration under applicable provisions of the Judicial Code.

Continuing Responsibilities

The committee continued to furnish assistance to the Supreme Court and to act as a clearinghouse for numerous amendments suggested by members of the bench and bar. The chair and counsel answered countless inquiries regarding the Rules of Civil Procedure from local courts and attorneys and from courts and attorneys in sister states. AOPC

Status of Recommendations		
Recommendation	Subject	Status
174	Promulgation and amendment of rules governing liens upon real property and revival of judgment liens	Promulgated 12-16-03, effective 7-1-04
180	Merger of the action in equity with the civil action	Promulgated 12-16-03, effective 7-1-04
185	New Rule 4007.5 governing conduct at a deposition	Tabled by committee
186	New Rule 229.1 governing failure to deliver settlement funds	Promulgated 6-7-04, effective 7-1-04
187	Amendment of Rule 1026 governing time for filing pleadings	Tabled by committee
188	Amendment of Rule 2253 governing late joinder of an additional defendant	Pending with Court
189	New Rule 1042.66 governing remittitur in medical professional liability actions	Superseded by promulgation of Rule 1042.72
190	New Rule 3301 <i>et seq.</i> governing wage attachment pursuant to Section 8127(a)(3.1) of the Judicial Code	Pending with Court
191	Amendment of Rule 227.1(b) governing post-trial practice to accommodate Rule of Evidence 103(a)	Promulgated 7-21-04, effective immediately
192	Amendment of Rules 239 and 239.8 governing local rules	Promulgated 6-30-04, effective immediately
193	Technical amendments arising from the promulgation of Recommendation No. 174 relating to judgment liens and revival of judgment liens, Recommendation No. 180 relating to the consolidation of the action in equity with the civil action and the order of 10-24-03 relating to motion practice	Promulgated 10-15-04, effective immediately

continued...

Chart 3.3.1

Status of Recommendations, continued		
Recommendation	Subject	Status
194	Amendment of Rule 2959 governing confession of judgment	Promulgated 9-28-04, effective immediately
195	Promulgation of new Rule 4011(d) governing limitations upon discovery -- mediation materials	Promulgated 8-20-04, effective 10-1-04
196	Technical amendments to Rules 239(f), 2957(b) and 2958.2(a)	Promulgated 10-15-04, effective immediately
197	Amendment of Rule 51 governing scope of the rules	Pending with committee
198	Rescission of Rule 223.2(e) (sunset provision) governing juror note-taking	Pending with committee
199	Amendment of Note to Rule 1018 and promulgation of new Rule 1042.16 governing captions in medical professional liability actions	Promulgated 12-27-04, effective immediately
200	Amendment of Note to Rule 1042.3(a)(2) governing the certificate of merit	Pending with Court
201	New Rule 1326 <i>et seq.</i> governing compelling arbitration and confirmation of arbitration award in consumer credit transactions	Pending with committee
---	Promulgation of new Rules 208.1 <i>et seq.</i> governing motions and new Rules 239.1 <i>et seq.</i> governing local rules	Promulgated 10-24-03, effective 7-24-04
---	Promulgation of new Rules 1042.21, 1042.26 <i>et seq.</i> , 1042.41, and 1042.51 governing pre-trial practice in medical professional liability actions	Promulgated 3-29-04, effective immediately
---	Promulgation of new Rule 223.3 governing jury instruction on noneconomic loss	Promulgated 8-20-04, effective 10-1-04

continued...

Chart 3.3.1, cont'd.

Status of Recommendations, continued		
Recommendation	Subject	Status
---	Promulgation of new Rule 1042.71 governing findings as to damages in medical professional liability actions	Promulgated 8-20-04, effective 10-1-04
---	Promulgation of new Rule 1042.72 governing excessive damage award for noneconomic loss in medical professional liability actions; amendment of Rule 227.4 governing entry of judgment upon <i>praecipe</i> of a party	Promulgated 9-17-04, effective 12-1-04

Chart 3.3.1, cont'd.

2004 Membership:

Civil Instructions Committee

Lee C. Swartz, Esq., *Chair*
Honorable Jeannine Turgeon, *Vice Chair*
Honorable Mark I. Bernstein
David E. Lehman, Esq.
John R. Lenahan, Esq.
Clifford A. Rieders, Esq.
Barbara R. Axelrod, Esq., *Reporter*

Criminal Instructions Subcommittee

Professor Bruce A. Antkowiak, *Chair*
Leonard G. Ambrose, III, Esq.
Thomas R. Ceraso, Esq.
Honorable Ernest J. Disantis, Jr.
Ronald Eisenberg, Esq.
Jules Epstein, Esq.
Frank G. Fina, Esq.
James Robert Gilmore, Esq.
Honorable Robert A. Graci
Honorable Richard A. Lewis
Honorable Jeffrey Alan Manning
Honorable Carolyn Engel Temin
Sandra Preuhs, Esq.
Caroline Roberto, Esq.
Stuart B. Suss, Esq.
Sara M. Webster, Esq.
James J. West, Esq.

Staff:

Roger B. Meilton, Esq., *Assistant Reporter and Secretary*
Lydia L. Hack, Esq., *Pennsylvania Bar Institute Contact*

Legal Authorization:

Pa. Constitution Article V, § 10(c)

About the Committee

The committee's mission is to assist the administration of justice in court proceedings by developing pattern jury instructions for use by both the bench and the bar.

Committee for Proposed Standard Jury Instructions

c/o Pa. Bar Institute
5080 Ritter Road
Mechanicsburg, PA 17055
(717) 796-0804
(800) 932-4637

Committee Activities

Civil Instructions

The subcommittee continued to work on a new supplement in 2004 and expects to publish it in 2005.

Criminal Instructions

The criminal instructions subcommittee continued to work on its first new edition in approximately 25 years. Plans are to publish the edition in 2005. **AOPC**

2004 Membership

Charles B. Gibbons, Esq., *Chair*
Honorable Richard A. Lewis, *Vice Chair*
David F. Binder, Esq.
Alan Steven Gold, Esq.
Vincent J. Grogan, Esq.
Syndi L. Guido, Esq.
Patrick J. O'Connor, Esq.
Leonard Packel, Esq., *Official Reporter*
Bernard W. Smalley, Esq.
Lee C. Swartz, Esq.

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

5035 Ritter Road,
Suite 700
Mechanicsburg, PA 17055
(717) 795-2100
[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, 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

2004 Membership

Sandor Yelen, Esq., *Chair*
Rosa Copeland Miller, Esq., *Vice Chair*
Samuel Tyrone Cooper, III, Esq.
G. Fred DiBona, Esq.
Thomas M. Golden, Esq.
Robert S. Grigsby, Esq.
Alan C. Kessler, Esq.
John F. Mizner, Esq.
Stuart H. Savett, Esq.
Kelly H. Shuster, Esq.

Staff:

Daniel Levering, *Administrator*
Katey Buggy, *Office Manager*

Legal Authorization:

Title 204 - Judicial System General Provisions Part V. Professional Ethics and Conduct [204 PA Code C. 82]
Pennsylvania Rules for Continuing Legal Education; No. 99 Supreme Court Rules Doc. No. 1

About the Board

The Continuing Legal Education Board administers the rules pertaining to continuing legal education (CLE) for attorneys.

The board is comprised of ten active Pennsylvania attorneys. Terms are three years in length, and members may serve two consecutive terms.

Pennsylvania

Continuing

Legal

Education

Board

5035 Ritter Road,
Suite 500
Mechanicsburg, PA 17055
(717) 795-2139
(800) 497-2253
e-mail pacleb@pacle.org
www.pacle.org

Compliance Requirements and Deadlines

Annual CLE credit-hour requirements are met by completion of accredited courses in the areas of substantive law, practice and procedure, ethics, professionalism or substance abuse. Lawyers must complete twelve hours of CLE, including a minimum of one hour of ethics, professionalism or substance abuse before the compliance year deadline.

Compliance deadlines and CLE requirements are based on one of three annual compliance periods to which lawyers have been assigned by random selection of lawyer identification numbers. The annual deadline dates are April 30, August 31 or December 31.

Board Organization

To best accomplish the requirements set forth by the Pennsylvania Rules for Continuing Legal Education, the Continuing Legal Education Board is organized into three committees, each covering a major area of operations: Accreditation, Administration and Compliance. A fourth committee, the Audit Committee, was discontinued. A description of each committee follows.

Accreditation Committee

The Accreditation Committee has three members: Sandor Yelen, Esq.; Rosa Copeland Miller, Esq. and Samuel T. Cooper, III, Esq. Its duties include oversight of the certification of providers and courses, CLE program standards, adequacy of course availability, and course and provider accreditation standards.

Administration Committee

The Administration Committee includes Sandor Yelen, Esq.; Rosa Copeland Miller, Esq. and Robert Grigsby, Esq. It handles matters

involving staff, employee relations, benefits, office equipment, office operations, fees and banking, and those enhancements to program administration necessary to ensure quality and efficiency.

Compliance Committee

John F. Mizner, Esq.; Rosa Copeland Miller, Esq.; Robert S. Grigsby, Esq. and Alan C. Kessler, Esq. comprise the Compliance Committee. This committee oversees attorney compliance; reviews requests for waivers, extensions and deferrals; reviews determination of lawyer noncompliance; and makes recommendations to the board for action regarding these issues.

2004 Board Actions and Operations Highlights

The board held four meetings in 2004.

Web Site Redevelopment

A significant accomplishment in 2004 was the redevelopment of the CLE board's Web site. In addition to adopting a clean and friendlier design, the new site includes new programs and on-line services for lawyers. E.g., the new "MyPACLE" feature allows lawyers to review their full CLE transcripts. The database of upcoming CLE courses was improved to include expanded and customizable search criteria.

Distance Learning Pilot Project

Two thousand four saw the second year of a two-year pilot project to allow attorneys the option of taking up to three hours of Internet or computer-based courses. The program was well-received by attorneys, and a report filed by the board with the Supreme Court in the fourth quarter of 2004 included a recommendation to continue it.

Capital Counsel CLE

In June of 2004 new Rule of Criminal Procedure 801 established qualification standards for lawyers to represent defendants in death penalty cases. The education component of the rule requires counsel to complete a specified amount of training relevant to representation in capital cases.

In response, the CLE board developed administrative standards and an action plan to review and accredit qualifying CLE programs, make a list of qualifying programs available to lawyers and track the lawyers who meet the requirement. A list of approved programs and qualifying counsel may be accessed on the board's Web site.

ORACLE

Board administrator Dan Levering served as immediate past president of the Organization of Regulatory Administrators for Continuing Legal Education in 2004. ORACLE is a national organization that represents the country's 40 mandatory continuing legal education jurisdictions.

Other Accomplishments

The board's other accomplishments for 2004 include

- conducting a CLE providers conference in the spring

- rolling out a direct debit payment option for CLE providers. This minimizes the need to mail and process checks and reduces the time it takes to post CLE credits to lawyer transcript records.
- electronically generating and distributing annual provider course evaluation reports to over 200 accredited providers.

Attorney Compliance

Lawyer compliance with requirements of Pennsylvania CLE Rules remains very high. Chart 3.6.1 on page 52 displays the compliance rate and number of lawyers in each group whose names were submitted to the Disciplinary Board of the Supreme Court for failure to meet CLE requirements.

Looking Ahead to 2005

Board projects for 2005, include

- major systems upgrades to all servers and most workstations as current machines reach the ends of their equipment cycles.
- updating Bridge the Gap program to include recent rule changes and enhanced presentation techniques.
- working with the new Investment Advisory Board to coordinate and develop an investment policy and plan. **AOPC**

Attorney Compliance				
Compliance Group/ Year Ending	# Lawyers Subject to Requirements	# Lawyers Complying	# Lawyers Involuntarily Inactivated	Compliance Rates (%)
Group 1 (April)				
92-93	17,100	16,959	141	99.2
93-94	17,300	17,179	121	99.3
94-95	17,619	17,552	67	99.6
95-96	17,873	17,768	105	99.4
96-97	17,804	17,639	165	99.1
97-98	17,665	17,523	142	99.2
98-99	17,864	17,751	113	99.4
99-00	18,132	18,018	114	99.4
00-01	18,426	18,295	131	99.3
01-02	18,480	18,342	138	99.2
02-03	18,668	18,539	129	99.3
03-04	18,224	18,720	104	99.4
Group 2 (August)				
92-93	17,124	16,868	256	98.5
93-94	17,289	17,134	155	99.1
94-95	17,649	17,540	109	99.4
95-96	17,595	17,507	87	99.5
96-97	17,410	17,294	116	99.3
97-98	17,613	17,511	102	99.5
98-99	17,756	17,666	90	99.5
99-00	18,087	17,974	113	99.4
00-01	18,181	18,100	81	99.6
01-02	18,143	18,011	132	99.3
02-03	18,572	18,493	79	99.6
03-04	18,753	15,664	89	99.5
Group 3 (December)				
92-93	17,269	16,936	333	98.1
93-94	17,474	17,414	60	99.7
94-95	17,679	17,574	105	99.4
95-96	17,542	17,430	112	99.4
96-97	17,582	17,456	126	99.3
97-98	17,781	17,647	134	99.2
98-99	17,968	17,865	103	99.4
99-00	18,220	18,113	107	99.4
00-01	18,361	18,227	134	99.3
01-02	18,479	18,366	113	99.4
02-03	18,625	18,527	98	99.5
03-04	18,887	18,792	95	99.5

Table 3.6.1

2004 Membership

Honorable John J. Driscoll, *Chair*
Nicholas J. Nastasi, Esq., *Vice Chair*
Scott A. Bradley, Esq.
Claire C. Capristo, Esq.
Ronald Eisenberg, Esq.
John L. Elash, Esq.
Philip B. Friedman, Esq.
Charles J. Grant, Esq.**
Stanley A. Greenfield, Esq.
Paul S. Kuntz, Esq., *ex officio*
D. Peter Johnson, Esq.
Alexander H. Lindsay, Jr., Esq.
Honorable Lester G. Nauhaus
Brian J. Preski, Esq.
Honorable John T. Robinson
Claude A. Lord Shields, Esq.*
Graham C. Showalter, Esq.

Staff:

Anne T. Panfil, Esq., *Chief Staff Counsel*
Jennifer A. H. Degenfelder, Esq., *Staff Counsel*
Suzanne M. Creavey, *Office Manager*

* Term expired 6-30-04

** Effective 6-30-04

Legal Authorization:

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

About the Committee

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.

Criminal

Procedural

Rules

Committee

5035 Ritter Road, Suite 800
Mechanicsburg, PA 17055
(717) 795-2100
e-mail criminal.rules@pacourts.us
[www.courts.state.pa.us/
Index/SupCtCmtes/
CrimRulesCmte/
Indexcrim.asp](http://www.courts.state.pa.us/Index/SupCtCmtes/CrimRulesCmte/Indexcrim.asp)

Reports

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. 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.

2004 Activities

The committee held five full-committee meetings and several subcommittee meetings in

2004. The full-committee meetings were held in Philadelphia, Pittsburgh, Harrisburg, Mendenhall and Hershey.

In 2004 the committee continued its work on the following:

- development and refinement of procedures for the use of advanced communication technology (ACT) in criminal cases
- work necessitated by the Common Pleas Case Management System (CPCMS), the statewide automation of the criminal division of the Common Pleas Courts.
- study of jury trial innovations that would benefit Pennsylvania's criminal justice system
- review of the rules affecting proceedings before the minor judiciary, specifically
 - the electronic preparation and filing of citations
 - motions in summary cases
 - requirements for the continuous availability of issuing authorities
 - special procedures necessary for the operation of the Philadelphia Traffic Court.
- monitoring local rules.

The committee also addressed several other areas of criminal practice and procedure, including right to counsel, bail, bench warrants, discovery, sentencing and procedures in the Philadelphia Municipal Court.

2004 Committee Action

The Supreme Court adopted nine committee recommendations for rule changes in 2004 and one new rule that was developed by an ad hoc committee appointed by the Court. A number of other recommendations remained pending with the Court. They are all described below and are listed in the Status of Recommendations chart beginning on page 57.

Proposals Adopted by the Supreme Court

Note: The Final Reports for any of these proposals can also be found on the committee's Web page at www.courts.state.pa.us/Index/SupCtCmtes/CrimRulesCmte/dockcrm.asp.

Recommendation No. 4, Criminal Rules 2000: Amendments to Rules 122 and 904 clarifying that **appointed counsel** remains in the case through all avenues of direct appeal, including the Supreme Court. Adopted 3-12-04, effective 7-1-04. See Final Report at 34 *Pa.B.* 1672 (March 27, 2004), and 843 *A.2d* Advance Sheets (*Pennsylvania Reporter Series*).

Recommendation No. 1, Criminal Rules 2003: Changes to the rules related to the **filing and service** of motions and court orders and notices and correlative rule changes, including amendments that would modify the procedures clerks of courts must follow when the filing is made by a represented defendant, require the clerk to accept all filings rather than make a determination of timeliness, and recognize the case law providing the "prisoner mailbox rule." Adopted 3-3-04, effective 7-1-04. See Final Report at 34 *Pa.B.* 1561 (March 20, 2004), and 842 *A.2d* Advance Sheets (*Pennsylvania Reporter Series*).

Recommendation No. 4, Criminal Rules 2003: Changes to Rules 122, 140, 141 and 454 clarifying the procedures concerning **appointment of counsel** in summary cases in view of *Alabama v. Shelton*. Adopted 3-26-04, effective 7-1-04. See Final Report at 34 *Pa.B.* 1931 (April 10, 2004), and 844 *A.2d* Advance Sheets (*Pennsylvania Reporter Series*).

Recommendation No. 5, Criminal Rules 2003: Rule 573 Comment revision clarifying the procedures concerning the assessment of charges for **discovery materials**. Approved 3-26-04, effective 7-1-04. See Final Report at 34 *Pa.B.* 1933 (April 10, 2004), and 844 *A.2d* Advance Sheets (*Pennsylvania Reporter Series*).

Recommendation No. 6, Criminal Rules 2003: Rules 130 and 555 changes to accommodate

Act 82 of 2002 and *Commonwealth v. McPhail* concerning **transfer of cases**. Adopted 5-21-04, effective 7-1-04. See Final Report at 34 *Pa.B.* 2911 (June 5, 2004), and 848 *A.2d* Advance Sheets (*Pennsylvania Reporter Series*).

Recommendation No. 7, Criminal Rules 2003: Numerous rule changes to establish the procedures for handling cases in which the **defendant** has failed to appear at the preliminary hearing. Adopted 8-24-04, effective 8-1-05. See Final Report at 34 *Pa.B.* 5025 (September 11, 2004), and 854 *A.2d* Advance Sheets (*Pennsylvania Reporter Series*).

Recommendation No. 9, Criminal Rules 2003: Changes to Rule 560 Comment clarifying that **informations** may be electronically prepared, signed and transmitted for filing. Adopted 4-23-04, effective immediately. See Final Report at 34 *Pa.B.* 2543 (May 15, 2004), and 846 *A.2d* Advance Sheets (*Pennsylvania Reporter Series*).

Recommendation No. 11, Criminal Rules 2003: Amendments to Rule 103 adding the **definition of "signature"** to accommodate ACT and automation. Adopted 4-30-04, effective 7-1-04. See (Final Report at 34 *Pa.B.* 2542 (May 15, 2004), and 846 *A.2d* Advance Sheets (*Pennsylvania Reporter Series*).

Recommendation No. 6, Criminal Rules 2004: Amendment to Rule 105 updating *Pa.B.* requirements for **submissions for publication** and clarifying the application of the rule. Adopted 10-15-04, effective 1-1-05. See Final Report at 34 *Pa.B.* 5893 (October 30, 2004), and 858 *A.2d* Advance Sheets (*Pennsylvania Reporter Series*).

New Rule of Criminal Procedure 801 establishing experiential and educational requirements for defense attorneys representing defendants in **death penalty cases**. Adopted 6-4-04, effective 11-1-04. See the committee's Web site for the order and rule as well as the correlative rule changes. This rule was developed by a special ad hoc committee appointed by the Court for this purpose.

Proposals Pending with the Supreme Court

Recommendation No. 6, Criminal Rules 2001:

Revision of the Comment to Rule 909 adding cross-references to *Commonwealth v. Morris* concerning temporary **stays** and the contents of a request for a stay filed separately from the PCRA petition. (The Court remanded this proposal to the committee to consider some concerns of the justices. Resubmitted 4-5-04.)

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. (The Court remanded this proposal to the committee to consider some concerns of the justices. It was still under consideration by the committee at the end of 2004.)

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. 8, Criminal Rules 2003:

Changes to Rule 647 permitting the **judges' charge to jury** to be before or after the closing arguments or at both times. (The Court declined to adopt this proposal 3-4-04.)

Recommendation No. 10, Criminal Rules 2003:

Changes to the rules of criminal procedure necessitated by the **proposed new rules of juvenile procedure**.

Recommendation No. 1, Criminal Rules 2004:

Proposed new Rule 644 **permitting jurors in criminal trials to take notes**.

Recommendation No. 2, Criminal Rules 2004:

Proposed amendments to Rule 720 (Post-sentence Procedures; Appeal) that address *Commonwealth v. Grant* concerning claims of **counsel's ineffectiveness** in a post-sentence

motion and clarify in the Comment the procedures for raising **after-discovered evidence**.

Recommendation No. 3, Criminal Rules 2004:

Proposed amendments to Rule 632 (**Juror Information Questionnaires**) that separate question one into two questions to eliminate potential confusion.

Recommendation No. 4, Criminal Rules 2004:

Proposed revisions of the Comments to Rules 502, 503 and 504 clarifying that the **complaint may be electronically prepared, verified and transmitted**. (The Court put this proposal on hold 8-16-04 at the request of the District Justice System and CPCMS staff until the technology is in place to accommodate this change.)

Recommendation No. 5, Criminal Rules 2004:

Proposed revision of the Rule 500 Comment to include a cross-reference to the Pennsylvania Rules of Evidence concerning the **unavailability of witnesses**. (The Court declined to adopt this proposal 11-8-04.)

Recommendation No. 7, Criminal Rules 2004:

Proposed amendments to Rule 705 to clarify the procedures concerning **concurrent sentences and credit for time served**.

Recommendation No. 8, Criminal Rules 2004:

Proposed amendments to Rules 120 and 122 providing that the filing of the order **appointing counsel** enters appointed counsel's appearance and clarifying the procedures concerning the entry of **appearance**, withdrawal of appearance and duration of counsel in Rule 120.

Looking Ahead to 2005

The committee plans to continue its efforts on the following:

- 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. AOPC

Status of Recommendations		
Recommendation	Subject	Status
4, 2000	Amendments to Rules 122 and 904 clarifying that appointed counsel remains in the case through all avenues of direct appeal	Adopted 3-12-04, effective 7-1-04
6, 2001	Amendments to Rule 909 adding cross-references to <i>Commonwealth v. Morris</i>	Submitted 7-26-01; remanded 6-26-02; resubmitted 7-18-03; remanded 12-17-03; resubmitted 4-5-04; pending with Court
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; remanded 4-27-04; pending with committee
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
1, 2003	Amendments to the Rules of Criminal Procedure governing motion practice	Adopted 3-3-04, effective 7-1-04
4, 2003	Amendments to Rules 122, 140, 141 and 454 clarifying the procedures concerning appointment of counsel in summary cases in view of <i>Alabama v. Shelton</i>	Adopted 3-26-04, effective 7-1-04
5, 2003	Rule 573 Comment Revision clarifying the procedures concerning the assessment of charges for discovery materials	Adopted 3-26-04, effective 7-1-04
6, 2003	Amendments to Rules 130 and 555 to accommodate Act 82 of 2002 and <i>Commonwealth v. McPhail</i> concerning transfer of cases	Adopted 5-21-04, effective 7-1-04
7, 2003	Amendments to Rules of Criminal Procedure governing failure to appear at preliminary hearings	Adopted 8-24-04, effective 8-1-05

continued...

Table 3.7.1

Status of Recommendations, continued

Recommendation	Subject	Status
8, 2003	Amendments to Rule 647 regarding judges' charge to jury	Court declined to adopt 3-4-04
9, 2003	Rule 560 Comment revision clarifying that information may be electronically prepared, signed and transmitted for filing	Adopted 8-23-04, effective immediately
10, 2003	Amendments to Rules of Criminal Procedure correlative to the new Rules of Juvenile Court Procedure	Submitted 10-10-03; pending with Court
11, 2003	Amendments to Rule 103 adding the definition of "signature" to accommodate ACT and automation	Adopted 4-30-04, effective 7-1-04
1, 2004	New Rule 644 permitting jurors in criminal trials to take notes	Submitted 2-23-04; pending with Court
2, 2004	Amendments to Rule 720 (Post-sentence Procedures; Appeal) that address <i>Commonwealth v. Grant</i>	Submitted 5-21-04; pending with Court
3, 2004	Amendment to Rule 632 (Juror Information Questionnaires) to separate question one into two questions to eliminate potential confusion	Submitted 6-1-04; pending with Court
4, 2004	Revisions of Comments to Rules 502, 503 and 504 clarifying that complaint may be electronically prepared, verified and transmitted	Put on hold by Court 8-16-04
5, 2004	Revision of Rule 500 Comment to include cross-reference to Pennsylvania Rules of Evidence concerning the unavailability of witnesses	Rejected by Court 11-8-04
6, 2004	Amendment to Rule 105 updating <i>Pa.B.</i> requirements for submissions for publication and clarifying the application of the rule	Adopted 10-15-04, effective 1-1-05
7, 2004	Amendments to Rule 705 to clarify the procedures concerning concurrent sentences and credit for time served	Submitted 7-9-04; pending with Court
8, 2004	Amendments to Rules 120 and 122 regarding appointing counsel and appearance	Submitted 9-8-04; pending with Court

Chart 3.7.1, cont'd.

2004 Membership:

Richard W. Stewart, Esq., *Chair+*
Louis N. Teti, Esq., *Chair++*
Marvin J. Rudnitsky, Esq., *Vice Chair#*
Laurence H. Brown, Esq.
Robert E. J. Curran, Esq.
Lori A. Flickstein, Esq.*
Gary G. Gentile, Esq.
Smith Barton Gephart, Esq.
C. Eugene McLaughlin
Jonathan H. Newman, Esq.
Nikki P. Nordenberg▲▲
Francis X. O'Connor, Esq.
J. Michele Peck###
William A. Pietragallo, Esq.▲
Mark S. Raspanti, Esq.
Robert C. Saidis, Esq.
Martin W. Sheerer, Esq.
Min S. Suh, Esq.**
Donald E. Wright, Jr., Esq.

* Resigned 2-19-04

** Appointed 2-19-04

+ Term expired 4-1-04

++ Appointed chair effective 4-1-04

Appointed vice chair effective 4-1-04

Term expired 4-1-04

▲ Appointed 4-1-04

▲▲ Appointed 4-5-04

Staff:

Joseph W. Farrell, *Executive Director*

Legal Authorization:

Pa. Constitution, Article V, § 10(c)

Rule 103, Pa. Rules of Disciplinary Enforcement

Rule 205(a), Pa. Rules of Disciplinary Enforcement

Rule 205(c), Pa. Rules of Disciplinary Enforcement

About the Board:

The Disciplinary Board was created by the Supreme Court in 1972 to consider and investigate the conduct of any person subject to the Pennsylvania Rules of Disciplinary Enforcement (Pa.R.D.E.) *continued...*

Disciplinary

Board

of the

Supreme

Court

First Floor
Two Lemoyne Drive
Lemoyne, PA 17043
(717) 731-707
www.padisciplinaryboard.
org

Such persons include:

- any attorney admitted to practice law in Pennsylvania
- any attorney from another jurisdiction specially admitted to the bar of the Supreme Court for a particular proceeding
- any disbarred, suspended or inactive attorney, with respect to violation of any rules committed prior to disbarment, suspension or transfer to inactivity
- any jurist with respect to any violation of rules committed prior to taking office, if the Judicial Conduct Board declines jurisdiction
- any attorney who resumes practice of law with respect to any nonjudicial acts performed while in office as a jurist.

Investigations may be initiated by the Disciplinary Board on its own motion or upon complaint from another person. (See Pa.R.D.E. Rules 103, 205(a) and 205 (c)(1)(2).)

2004 Statistics	
Attorneys	55,325
Change from 2003	0.80%
Complaints file with board	4,891
Change from 2003	(2.43)%
Pending at start of 2004	1,003
Complaints disposed of	4,887
Total complaints resulting in discipline	326
Total pending at end of 2004	1,007

Table 3.8.1

2004 Activities

Statistics for 2004 can be found in Table 3.8.1 above.

The board met six times in 2004. The results of the executive sessions can be found in Table 3.8.2 on page 62. A tabulation of the disciplinary actions taken since the beginning of the board's operations in 1972 is set forth on Table 3.8.3 on page 65. Comparisons of cumulative actions taken and actions taken in 2004 can be found in Chart 3.8.4 on page 67.

At the board's request, the chief disciplinary counsel, the new executive director and the secretary of the board have taken steps to expedite the disposition of complaints. The board recognizes that complainants and respondents deserve to have their cases handled in a timely manner. A number of changes in procedures and productivity have served to reduce significantly the time it takes to process a case.

Rules Committee

The following rule changes were approved by either the board or the Supreme Court or became effective in 2004:

New Pa.R.P.C.1.19 and amendment to the Comment to Pa.R.P.C.1.6: Requires **lawyers acting as lobbyists** to comply with registration and disclosure laws, regulations or rules enacted by the executive or legislative branches of state government; authorizes disclosure of information related to client representation in order to comply with disclosure laws; and reiterates that all such compliance actions by a lawyer-lobbyist must be consistent with the Rules of Professional Conduct. Adopted 12-22-03, effective 1-3-04.

Rules of Organization and Procedure of the Board: Conforming changes to reflect the adoption of amendments to Pa.R.D.E. 203(b), 207(b), 208(b) and 218(c). Effective 2-21-04.

Pa.R.D.E. 208(f) and 214(d): Amendments to require that 1) the secretary of the board be served with a copy of any **petition to dissolve** or amend an **order of temporary suspension**; 2) the time period to hold the hearing runs from service of the petition on the secretary; and 3) the time periods set forth in the amended rules are calculated based on business days. Adopted 3-5-04, effective 3-20-04.

Pa.R.D.E. 102(a), 205(c), 206(a) – (c), 213(d) and 218(c): Amendments to change the organization of **hearing committees** by classifying members by their experience and ranking them

as senior, experienced or new members. Only senior or experienced members are permitted to perform certain functions under the rules. Adopted 9-9-04, effective 9-25-04.

Rules of Organization and Procedure of the Board: Conforming changes to reflect the adoption of amendments to Pa.R.D.E. 208(f)(4), 214(d)(4), 201 and 216. Effective 9-11-04.

Pa.R.D.E. 213: Amended to provide a procedure to seek review of a hearing committee member's determination on the **validity of a subpoena** and to establish time periods in which to do so. Adopted 11-22-04, effective 12-11-04.

"Ethics 2000" Changes to the Rules of Professional Conduct: These changes derived from recommendations from the American Bar Association, some of which were influenced by Pennsylvania's experience. The new rules preserve some existing rules specific to Pennsylvania experience and culture or that require conformity with existing statutes, thus achieving an appropriate balance between state and national practices. Adopted 8-23-04, effective 1-1-05.

Several proposed amendments were published for comment in 2004 as follows:

Rule of Professional Conduct 1.15 relating to **safekeeping of property**.

Pa.R.D.E. relating to **confidentiality of disciplinary proceedings**.

Pa.R.D.E. relating to **foreign legal consultants**.

Pa.R.D.E. 215 relating to **discipline on consent**.

Pa.R.D.E. relating to **organization of hearing committees**.

New Rule Pa.R.P.C. 1.18 to clarify that a lawyer who consults with a **prospective client** must treat the information learned during the consultation as confidential information that may not be revealed, except as allowed under

the exceptions to a lawyer's duty of confidentiality.

Pa.R.D.E. 102, 201, 203, 204, 212, 216, 217, 219 and 512 and Pa.R.P.C. 5.5 amendments to conform with Pennsylvania Bar Admission Rules changes providing for the **limited admission** of in-house corporate counsel and military attorneys and relating to foreign legal consultants.

Finance & Pension Committee

Effective January 1, 2004, the Disciplinary Board staff joined the Pennsylvania judiciary's medical benefits plan. Although the judiciary's medical benefits were similar to those offered to employees of the Disciplinary Board, the main reason behind the board's request to join the Court's plan was to better control the rising costs of medical insurance through a larger group size. Although the Disciplinary Board is self-funded through attorneys' annual fees, the relatively small size of the staff and the geographic locations of the offices limited the board's options with medical providers, as evidenced by the 23 percent increase in medical insurance premiums July 1, 2003. Since joining the judiciary's plan, the board has neutralized any additional increases in medical insurance costs through employee contributions and has reimbursed the Administrative Office of Pennsylvania Courts for the board's insurance costs.

The Finance and Pension Committee also analyzed the costs associated with hiring a full-time court reporter to service the Districts I and II offices. The committee found that the cost of providing salary and benefits for this employee would be higher than the expenses the board currently pays the court reporting firm used to attend and transcribe the notes of testimony for the hearings held in those two offices.

The committee studied the possibility of assessing an annual fee for inactive attorneys as a way of generating more revenues to offset the board's increased expenses. It reviewed a survey compiled by the New Jersey Office of

Attorney Ethics, which reported that 37 jurisdictions in the United States charge inactive fees. The committee also examined rules from three other jurisdictions with a comparable number of licensed attorneys. Two of those jurisdictions suspend attorneys who fail to pay their fees. The committee thus recommended to the board that an annual fee be imposed on inactive attorneys, that retired attorneys be exempt from paying inactive fees and that the enforcement rules be amended to provide that failure to pay either the active or inactive fees would result in the attorney being suspended from the practice of law.

Education Committee

The Education Committee prepared and presented the training session/refresher course for hearing committee members, held September 24, 2004, in Hershey. One hundred forty members attended.

The committee also designed the program for the board’s retreat meeting in July 2004. The topics were Professional Liability Insurance and Discipline on Consent.

Guest speaker Ellyn Rosen, Associate Regulation Counsel with the American Bar Association Center for Professional Responsibility, discussed discipline on consent. She provided the board with the results of a poll conducted by the Michigan Attorney Discipline Board on which jurisdictions had provisions for discipline on consent. Of the 27 respondents, Pennsylvania was the only one which limited discipline on consent to disbarments. As a result, the board has developed and recommended to the

2004 Executive Session Results	
Action	Total
Adjudications involving formal charges	69
Board referrals to Supreme Court, including report and recommendation for public discipline	44
Oral arguments before three-member panels of board members	11
Hearing before one board member on petition to dissolve temporary suspension	1
Hearing before one board member on petition to revoke suspension	1
Considerations by three-member panels of recommendations for summary private reprimands	19
Appeals by Office of Disciplinary Counsel from Review Hearing Committee members before three-member panels	2
Respondents appearing before board or three-member panels to receive private reprimands	39
Approval of filing petitions with the Supreme Court for emergency temporary suspensions	2
Petitions for reinstatement to active status of attorneys inactive more than three years with no discipline involved	60

Table 3.8.2

Court proposed rules to establish a procedure for discipline on consent.

Communications Committee

In January the board hired the consulting firm Hershey Philbin Associates (HPA) to help educate both the public and attorneys about the disciplinary board and the board’s role in ensuring the integrity of professional legal services in Pennsylvania. Among the company’s endeavors were improvements to the board’s Web site, including a redesign of the on-line consumer brochure; development of an e-newsletter to educate and inform attorneys on various aspects of the Rules of Professional

Conduct; an analysis of Pennsylvania's disciplinary system versus those of other comparable jurisdictions; and improved communications with each county bar association.

In August the Office of Disciplinary Counsel presented an ethics school continuing legal education satellite program in Pittsburgh. Two one-hour courses were offered, "Overview of the Pennsylvania Disciplinary System" and "Myths and Safekeeping Client Property and Trust Accounts." Although the board is unable at this time to present these types of courses on a regular basis due to the additional costs and staff time it would require, efforts are being made to incorporate these two subjects into existing CLE programs.

In 2004 Communications Committee Chair Robert C. Saidis, Esq. was assigned the task of reviewing written requests from attorneys who ask that their address information, either in writing or via the board's Web site, not be published. Of the 70 requests received, Mr. Saidis recommended that 53 be granted and 17 be denied for lack of good cause.

Hearing Committees

Because of amendments adopted by the Supreme Court, the hearing committees were restructured in October 2004. The amendments eliminated the numbered committees, such as Hearing Committee 1.01 or 1.02, and instead empowered the board to assign formal hearings to committees within a disciplinary district, using all available committee members.

Members are now ranked based on experience. Senior members are those who have completed one full three-year term and who have conducted at least three hearings that required the preparation of transcripts and full reports to the board. Experienced members are those who have completed at least one full year of service and who have conducted at least one hearing that required preparation of transcripts and a full report to the board. New members

are those who are either still in their first year of service and/or have not yet had a full hearing.

The new rules governing the appointment of three-member committees to hear cases require that a committee be composed of at least one senior member and one senior or experienced member. The board designates a senior member to chair the committee. Only a senior or experienced member may conduct the mandatory prehearing conference.

Changes have also been made to the procedures for scheduling hearings. At the time the three committee members are selected, prehearing and hearing dates are set and notices of prehearing and hearing are sent to the parties and the committee. This has eliminated the undue delays in scheduling that the board has experienced in the past.

As of December 31, 2004, nine senior members, 67 experienced members and 40 new members appointed by the Disciplinary Board were serving on a *pro bono* basis to conduct hearings.

National Council of Lawyer Disciplinary Boards

In February 2004 then Board Member and now Vice Chair Marvin J. Rudnitsky and Secretary of the Board Elaine Bixler attended the first meeting of the National Council of Lawyer Disciplinary Boards (NCLDB) in San Antonio, Texas. Mr. Rudnitsky was a presenter on the panel discussing recruiting, training and supporting the volunteer board and hearing committee members. Ms. Bixler was elected to the board of directors of the NCLDB.

Miscellaneous

In March 2004 the board began a search for an administrative staff person to assist in the day-to-day management of the office of the

secretary. Initially, the position was to be titled the deputy director of administrative affairs. Upon consultation with the Court, however, the job description was revised to create the position of executive director.

Joseph W. Farrell was hired November 8, 2004. As executive director he is responsible for all administrative functions, including attorney registration functions, personnel adminis-

tration, budgeting and managing other financial matters. He has extensive management experience, having served as Deputy Executive Director of Administration and Enforcement for the Pennsylvania Public Utility Commission and manager of the Executive Office for Customer Advocacy at First Energy since 1998.

Elaine Bixler remains as Secretary of the Board. AOPC

Table 3.8.3

Table 3.8.3, cont'd.

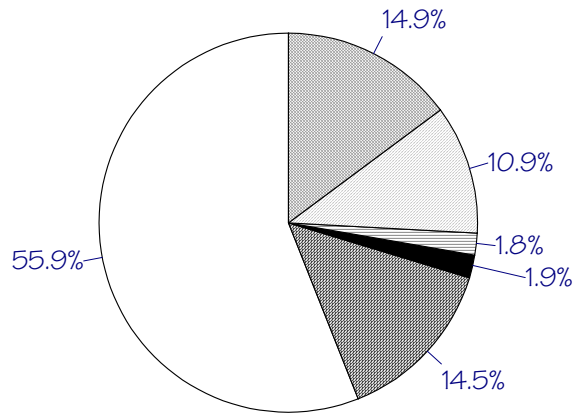
Disciplinary Board Actions: 1973-1992

Disciplinary Cases	1973	1974	1975	1976	1977	1978	1979	1980	1981	1982	1983	1984	1985	1986	1987	1988	1989	1990	1991	1992
Informal Admonition	37	55	95	81	96	102	121	98	113	156	137	125	123	101	110	106	123	98	115	82
Private Reprimand	0	7	8	9	7	14	5	5	4	6	9	21	19	27	17	25	31	26	46	42
Probation	0	0	0	0	2	1	0	0	0	0	0	0	0	0	0	0	0	1	1	7
Public Censure	0	2	5	8	10	7	6	1	1	2	6	1	3	2	3	0	2	1	4	1
Suspension	3	12	12	8	10	13	17	8	17	12	7	7	16	5	10	17	17	18	10	20
Disbarment	3	4	6	5	13	6	12	12	21	33	24	21	16	29	23	32	18	26	27	38
TOTAL	43	80	126	111	138	143	161	124	156	209	183	175	177	164	163	180	191	170	203	190
Reinstatement Cases																				
Petitions Granted	1	2	2	3	3	4	2	6	42	21	22	25	21	17	24	34	27	34	35	27
Petitions Denied	1	2	2	0	0	3	1	5	4	0	0	2	0	2	1	1	0	1	0	1
TOTAL	2	4	4	3	3	7	3	11	46	21	22	27	21	19	25	36	27	35	35	28

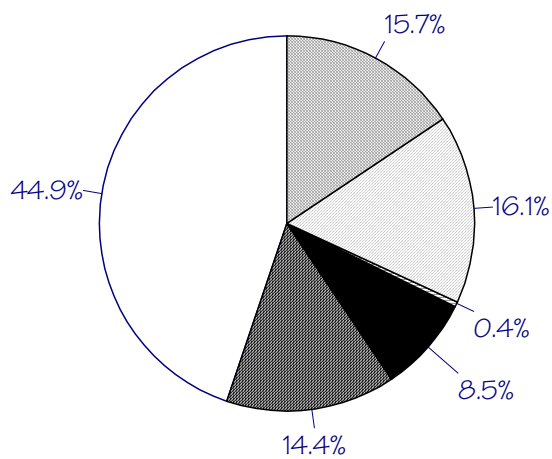
Disciplinary Board Actions: 1993-2004

Disciplinary Cases	1993	1994	1995	1996	1997	1998	1999	2000	2001	2002	2003	2004	Total
Informal Admonition	85	75	74	70	106	88	48	45	40	54	58	106	2,923
Private Reprimand	30	41	48	31	46	43	26	29	35	32	36	34	759
Probation	5	5	7	3	8	5	7	3	10	8	8	20	101
Public Censure	0	1	6	3	3	7	4	0	2	2	1	1	95
Suspension	12	23	26	37	33	24	23	30	27	29	31	38*	572
Disbarment	20	32	35	41	40	33	29	32	31	42	38	37+	779
TOTAL	152	177	196	185	236	200	137	139	145	167	172	236	5,229
Reinstatement Cases													
Petitions Granted	29	24	44	31	35	33	45	35	55	64	58	75#	822
Petitions Denied	1	0	1	0	2	1	4	2	3	4	4	2▲	46
TOTAL	30	24	45	31	37	34	49	37	58	68	62	79	868
<p>* This figure does not include eleven temporary suspensions (Rule 214 Pa.R.D.E.) and four temporary suspensions (Rule 208(f) Pa.R.D.E.).</p> <p>+ This figure includes 27 disbarments on consent (Rule 215 Pa.R.D.E.).</p> <p># This figure includes reinstatement to active status of 63 attorneys who had been inactive three or more years, 9 reinstatements after suspensions and three reinstatements after disbarment.</p> <p>▲ This figure includes zero reinstatements denied after suspension and two reinstatements denied after disbarment.</p>													

Disciplinary Board Actions Comparison 1973-2004



2004



□ Informal Admonition	■ Private Preprimand	■ Probation
▨ Public Censure	▨ Suspension	▨ Disbarment

Table 3.8.4

2004 Membership:

Robert C. Capristo, Esq. , *Chair*
Nancy P. Wallitsch, Esq., *Vice Chair*
Mark M. Dalton, *ex officio*
Mark B. Dischell, Esq.
Honorable Kevin M. Dougherty
Honorable Myrna P. Field
David N. Hofstein, Esq.
Frederick R. Mogel, Esq.
Honorable Eugene F. Scanlon, Jr.
James B. Yelovich, Esq.

Staff:

Patricia A. Miles, Esq., *Counsel*
Terri L. Metil, *Administrative Assistant*

Legal Authorization:

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

About the Committee

Begun as a seven-member section of the Civil Procedural Rules Committee in 1984 and established as its own committee by order of the Supreme Court on June 30, 1987, the Domestic Relations Procedural Rules Committee strives to simplify family law practice. It does this by recommending new rules or amendments to the existing procedural rules relating to paternity, support, custody, divorce and protection from abuse. It reviews new legislation and court decisions to ensure the rules conform with developments in the law as well as the realities of domestic relations practice.

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

Domestic

Relations

Procedural

Rules

Committee

5035 Ritter Road,
Suite 700
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e-mail patricia.miles@pacourts.us
[www.courts.state.pa.us/
Index/SupCtCmtes/
domesticrelations/
indexdomrel.asp](http://www.courts.state.pa.us/Index/SupCtCmtes/domesticrelations/indexdomrel.asp)

2004 Activities

The committee met four times in 2004 as follows:

February	Philadelphia
May	Harrisburg
August	State College
November	Harrisburg

Invited guests to these meetings included representatives of the Department of Public Welfare and the Domestic Relations Association of Pennsylvania, judges, masters and family law practitioners.

The committee strives to maintain open channels of communication with those who work with or are affected by the rules it proposes. To this end, throughout 2004 committee members and staff spoke at conferences and seminars to inform lawyers, court personnel and others of recent and proposed changes in the procedural rules related to family law matters. These included the Pennsylvania Bar Association Family Law Section's summer and winter meetings, the Joint Family Law Council, local bar associations, the Department of Public Welfare's Domestic Relations Section Director's Conference and the Domestic Relations Association of Pennsylvania Conference.

2004 Recommendations

The following recommendations were promulgated or pending with either the Supreme Court or the committee in 2004. A chart listing the statuses of the recommendations is set forth in Table 3.9.1 on page 72.

Recommendation 66: Amendments as follows:

Rule 1910.16-2(b) -- Benefits. Clarifies the treatment of social security death benefits in support matters and clarifies the obligations of third parties.

Rule 1910.16-6(a) -- Federal Child Care Tax Credit. Rather than including specific

figures and percentages, the revision refers to the tax code such that any future changes in the tax law regarding the credit can be applied automatically.

Promulgated 11-9-04, effective immediately.

Recommendation 67. Support Guidelines Review (Rules 1910.16-1 through 1910.16-7). Pursuant to both federal -- Family Support Act of 1988 (P.L. 100-485, 102 Stat. 2343 (1988)), 42 U.S.C., §467(a) -- and state -- 23 Pa. C.S., §4322(a)-- law, statewide support guidelines must be reviewed at least once every four years to assure that appropriate child support amounts are being awarded. In addition, federal regulation 45 CFR 302.56 requires that such reviews include an assessment of the most recent economic data on child-rearing costs and a review of data from case files to assure that deviations from the guidelines are limited.

The Domestic Relations Procedural Rules Committee began the mandated review process in early 2003, assisted by Jane Venohr, Ph.D., an economist with Policy Studies, Inc., under contract with the Pennsylvania Department of Public Welfare.

Recommendation 67 includes the following provisions:

Rule 1910.16-3 -- Child Support Schedule. Amendments to reflect updated economic data to ensure that children continue to receive adequate levels of support. In addition, the support amounts in the schedule would apply to parties with a combined net monthly income of \$20,000, rather than the current \$15,000. The amended schedule also would incorporate an increase in the Self Support Reserve* from \$550 per month to \$748 per month.

*Formerly designated as the Computed Allowance Minimum, or CAM, the Self Support Reserve is intended to assure that low-income obligors retain sufficient income to meet their own basic needs as well as to maintain the incentive to continue employment.

Rule 1910.16-4 -- Reductions in Support for Shared Parenting Time. Because the basic child support schedule at Pa.R.C.P. 1910.16-3 is based upon studies of expenditures on children in intact households, no consideration is made of the costs the obligor assumes when he or she exercises visitation or partial or shared custody. This amendment institutes a schedule of reductions for shared parenting time.

Rule 1910.16-6 -- Child Care. Proposed amendment to apportion between the parties the cost of child care incurred by both parties during their custodial time with the child.

Submitted October 2004.

Recommendation 68. Technical amendments submitted to the Court without publication to change the **notices regarding legal counsel** in domestic relations matters to be consistent with the notices in other civil matters. (Supreme Court *per curiam* order dated June 10, 2003, promulgated amendments recommended by the Civil Procedural Rules Committee, revising all notices regarding legal counsel in the general civil rules.) Promulgated 3-18-04, effective 6-16-04.

Recommendation 69. Technical amendment to Pa.R.C.P. 1940.4 (**Minimum Qualifications of the Mediator**) submitted to the Court without publication to change the reference from "Academy of Family Mediators" to "Association for Conflict Resolution" to reflect the merger of the two organizations.

Recommendation 71. Amendments as follows:

Rule 1910.16-4. Calculation of Support Obligation, Formula. Subdivision (e) of this rule deals with custodial parents who owe spousal support to non-custodial parents. The proposed language clarifies the offset between child and spousal support.

Rule 1910.16-6(b)(1) and (2) Adjustments to the Basic Support Obligation. On November 20, 2003, the Pennsylvania Supreme Court issued an opinion in *Maher v. Maher*, 575 Pa. 181, 835 A.2d 1281 (Pa. 2003), holding that the trial court erred in requiring a support obligor to pay a portion of the health insurance premium that covered the ex-wife obligee. The proposed amendments bring the rule into conformance with *Maher*.

Rule 1910.17. Effective Date. Change of Circumstances. Copies of Order. Amendment to clarify the issue of retroactivity of support orders. The committee recommended the change to include the statutory language at 23 Pa.C.S.A. §4352(e), permitting retroactivity to an earlier date than the date upon which the petition was filed if the petitioner was precluded from filing a petition for modification by reason of a disability, a misrepresentation of another party or other compelling reason and if the petitioner, when no longer precluded, promptly filed a petition. AOPC

Status of Recommendations		
Recommendation	Subject	Status
66	Child support amendments related to social security death benefits and the federal child care tax credit	Promulgated 11-9-04, effective immediately
67	Amendments related to determination of child support amounts	Pending with Court
68	Technical amendments related to notices regarding legal counsel	Promulgated 3-18-04, effective 6-16-04
69	Technical amendment to minimum qualifications of the mediator	Pending with Court
71	Amendments related to spousal support and retroactivity of child support orders	Pending with committee

Chart 3.9.1

2004 Membership:

Richard I. Thomas, Esq., *Chairman*
Maureen P. Kelly, Esq., *Vice Chairman*
William P. Carlucci, Esq.
Hubert X. Gilroy, Esq.
Lewis F. Gould, Jr., Esq.
Kenneth M. Jarin, Esq.
Honorable William P. Mahon, Esq.
M. Mark Mendel, Esq.
Michael H. Reed, Esq.

Staff:

Alfred J. Azen, *Executive Director*

Legal Authorization:

Supreme Court Order No. 252 (Disciplinary Docket No. 3, July 17, 1996)
Rule 1.15, Pennsylvania Rules of Professional Conduct

About the Board

The Interest on Lawyers Trust Account (IOLTA) program was first established in 1988 as a voluntary means to raise money to provide civil legal services to the poor and disadvantaged of Pennsylvania. With the issue of Supreme Court Order 252, Disciplinary Docket No. 3 on July 17, 1996, this program became mandatory. It is the job of the IOLTA Board to administer the program, collecting and managing the funds received and awarding grants to nonprofit organizations, law school clinical and internship programs, and *pro bono* programs.

The IOLTA Board is comprised of nine members appointed by the Supreme Court. Members serve terms of three years and may serve maximums of two consecutive terms.

Interest on Lawyers Trust Account Board

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Harrisburg, PA 17108
(717) 238-2001
(888) 724-6582
fax (717) 238-2003
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www.paiolta.org

How the IOLTA Program Works

Clients often ask attorneys to hold particular sums of money for them. When this involves a large amount or a lengthy period of time, attorneys invest the money for their clients. When the amount is small or will be held for a relatively short period of time, however, investing is not practical. It is these funds that the IOLTA program targets.

These small or short-term funds are deposited into special interest-bearing IOLTA accounts at financial institutions that have been approved by the Supreme Court. On a quarterly basis, the financial institutions transfer the interest from these accounts to the Pennsylvania Interest on Lawyers Trust Account Board, which administers the program. The board, upon approval from the Supreme Court, distributes the funds to nonprofit organizations, law school-administered clinics and administration of justice projects that provide civil legal services free of charge to the poor and disadvantaged.

Attorneys may apply for exemption from IOLTA requirements. This is usually granted when attorneys infrequently handle fiduciary funds or when the service charges on an IOLTA account routinely and significantly exceed the interest that might be generated by the account. Currently, the IOLTA Board has established that accounts with an average daily balance of \$3,500 or less over a twelve-month period (higher for accounts at banks that assess higher service charges) will be exempted from the requirements. Other exemption requests are considered on a case by case basis.

Additional Funding

The Access to Justice Act (AJA), part of Act 122 of 2002, provides for a \$10 surcharge to be placed on all civil filings and on criminal filings where a conviction or guilty plea is obtained. A percentage of this surcharge is placed into the Access to Justice Account for the IOLTA Board to provide grants to legal services

organizations. (Under a sunset provision in the statute, the AJA is scheduled to expire November 1, 2007, unless reviewed by the legislature.)

The IOLTA Board also receives a small amount of funding from voluntary lawyer contributions. These contributions are used to increase organized *pro bono* representation in Pennsylvania.

Pennsylvania Lawyers Fund for Client Security

Plagued by historically low interest rates on IOLTA accounts over the past year, funding for the IOLTA Board has reached critical levels. Grants for law school clinics and internships declined significantly, and the board used nearly all of its cash reserve in order to fund its grants. With interest rates likely to remain low and the board in dire need of additional funds, the Supreme Court authorized a one-time transfer of \$1.4 million from the Pennsylvania Lawyers Fund for Client Security (PLFCS) to the IOLTA Board. This funding will allow the board to reestablish its cash position as well as provide stabilizing grants to the law school clinics and internships. It will also allow the board time to explore potential alternative funding sources or policy alternatives to stabilize the law school grants program.

Attorney Compliance

To assure attorney compliance with the IOLTA program requirements, attorneys must report their fiduciary accounts on the attorney fee form, which is filed annually with the Disciplinary Board of the Supreme Court. Follow-up with attorneys is made if the data on the form does not match the IOLTA Board's records.

IOLTA Grants

Under Rule 1.15 of the Rules of Professional Conduct, IOLTA program funds may be used for the following purposes:

- providing civil legal assistance to the poor and disadvantaged in Pennsylvania
- educational legal clinical programs and internships administered by law schools located in Pennsylvania
- administration and development of the IOLTA program in Pennsylvania
- the administration of justice in Pennsylvania.

This includes the full range of legal services needed for the representation of a client, including brief service, litigation or representation of a class of similarly situated eligible clients, and other advocacy.

The board also seeks to assure the geographical dispersion of IOLTA grant awards to legal services organizations and encourages law schools to reach beyond the physical locations of the schools when providing externship opportunities for their law students.

Board policy states that IOLTA funds may not be used to provide legal assistance for any of the following purposes:

- fee-generating cases
- the defense of any criminal prosecution
- civil actions brought against an official of the court or against a law enforcement official for the purpose of challenging the validity of a criminal conviction
- advancement of any political party or association or candidate for any public office or to support or oppose any ballot question
- support of activities intended to influence the issuance, amendment or revocation of any executive or administrative order or regulation or to influence the introduction, amendment, passage or defeat of any legislation

- seeking the freedom to choose abortion or the prohibition of abortion.

Grant Process

In December of each year, the IOLTA Board projects its expected annual revenues for the upcoming fiscal year grant cycle (July 1 - June 30). Variations from projections are generally taken into consideration in subsequent grant cycles, although the board reserves the right to adjust current grants if actual IOLTA revenues are significantly below projections. In mid-January the board announces the availability of funds.

Grant applications must be made to the board by early February. The board reviews all requests and submits its recommendations to the Supreme Court in late March. Upon approval by the Court, grant applicants are notified and grant agreements executed with the successful organizations and law schools.

Applicant Qualifications

The IOLTA Board has determined the following qualifications for prospective applicants to be considered for an IOLTA grant:

Legal Services Organizations

Organizations must:

- be not-for-profit Pennsylvania corporations
- be tax exempt under section 501(c)(3) of the Internal Revenue Code
- operate primarily within Pennsylvania
- have as their primary purpose the provision of civil legal services without charge.

Organizations may provide *pro bono* legal services directly and/or administer provision of services.

Law Schools

Law schools must meet the following requirements:

- the funds must be used to address the current civil legal needs of the poor, organizations assisting the poor or other charitable organizations
- the schools must consult with local area *pro bono* or legal services programs that provide free or low-fee legal services to the poor
- the funds must be used for live-client or other real-life practice experience
- the school must demonstrate its own funding participation for clinical and internship programs.

Other factors considered by the board when reviewing law school applications include whether:

- the clinical/internship program is for credit
- specific and measurable training goals and objectives are defined
- the IOLTA-funded program is integrated with the school’s curriculum
- the school’s standing faculty has made an articulated commitment to the IOLTA-funded program

- the school has an articulated *pro bono* or public service policy
- the funds are being used to expand clinical educational opportunities for students and not simply to replace existing financial commitments by the law schools.

Administration of Justice

The board has not yet defined this grant category.

Fiscal Year 2004-05 Statistics

Grants totaling \$12,131,694 were awarded in fiscal year 2004-05 as follows:

Legal Service Organizations	\$10,676,994
Pennsylvania Law Schools	1,400,000
<i>Pro Bono</i> Grants	54,700

The largest grant, \$8,910,583, was awarded to Pennsylvania Legal Services, which is an administrative and support organization that oversees a statewide system of legal aid programs (the Pennsylvania Legal Aid Network) that is staffed by professional poverty law lawyers. AQPC

2004 Membership:

F. Barry McCarthy, *Chair*
Honorable Carol K. McGinley, *Vice Chair*
Frank P. Cervone, Esq.
Honorable Robert J. Colville
John P. Delaney, Jr., Esq.
Honorable Thomas J. Doerr
Honorable Kevin A. Hess
Jason P. Kutulakis, Esq.
Michael E. Noyes, Ph.D., *ex officio*
Honorable Abram Frank Reynolds
Cynthia K. Stoltz, Esq.

Staff:

A. Christine Riscili, Esq., *Staff Counsel*
Tricia D. Remmert, Administrative Assistant

Legal Authorization:

Pa. Constitution, Article V, § 10(c)
42 Pa.C.S., § 1722
Supreme Court Order No. 264 (Docket No. 1, Book No. 2) January 22,
2001

About the Committee

The Supreme Court of Pennsylvania established the Juvenile Court Procedural Rules Committee in January 2001 to advise the Court concerning its constitutional and statutory responsibility to prescribe general rules governing juvenile delinquency practice and procedure and the conduct of all courts and proceedings before the minor judiciary within the Unified Judicial System.

Juvenile

Court

Procedural

Rules

Committee

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(717) 795-2175
e-mail juvenile.rules@pacourts.us
[www.courts.state.pa.us/
Index/SupCtCmtes/
juvct/indexjuvct.asp](http://www.courts.state.pa.us/Index/SupCtCmtes/juvct/indexjuvct.asp)

Reports

Prior to submitting a recommendation to the Supreme Court, the committee publishes the proposal and an explanatory "Report" that describes the proposal and gives members of the bench, bar and public an opportunity to comment on it. The proposals and reports are published in the *Pennsylvania Bulletin*, West's *Atlantic Reporter* advance sheets and various local bar association publications and on the Unified Judicial System's (UJS) Web site. The committee also distributes the reports to organizations and practitioners in the juvenile system..

Web Site

The Juvenile Court Procedural Rules Committee publishes its rule proposals and reports, the Supreme Court's orders promulgating rule changes, the text of the rule changes and the "Final Reports" on the UJS Web site. These documents may be found on the Supreme Court Committees page at www.courts.state.pa.us.

2004 Activities

The committee's work included developing procedures for dependency proceedings

in the areas of commencing proceedings, emergency custody, pre-adjudicatory placement, venue, petition, motion procedures, adjudicatory summons and notices, general provisions, business of courts, counsel, records, discovery, pre-adjudicatory conference, preservation of testimony & evidence and the adjudicatory hearing.

Committee Action

One proposal was pending with the Supreme Court in 2004:

Recommendation No. 1, Juvenile Rules 2003: Proposed adoption of the Rules of Juvenile Court Procedure -- Delinquency Matters.

Looking Ahead to 2005

The committee plans to finalize its initial set of juvenile court rules for dependency matters. It plans to publish the proposed rules for comment in late summer or early fall. After considering all comments and making final revisions, the committee will submit the final proposal to the Supreme Court for consideration and possible adoption.

AOPC

**Minor
Court
Rules
Committee**

2004 Membership:

Honorable Thomas E. Martin, Jr., *Chairman*
Honorable Robert S. Blasi
Aileen Bowers, Esq., *ex officio*
Honorable M. Kay DuBree
Honorable Robert V. Manlove
Honorable Timothy Patrick O'Reilly
Honorable Henry J. Schireson
Honorable Carla M. Swearingen

Staff:

Michael F. Krimmel, Esq., *Counsel*
Tricia D. Remmert, Administrative Assistant

Legal Authorization:

Pa. Constitution, Article V, § 10(c)
Supreme Court Order No. 92 (Magisterial Docket No. 1, Book No. 2) April
17, 1990

About the Committee

The Minor Court Rules Committee examines and evaluates the rules and standards governing practice and procedure in Pennsylvania's district justice courts. It reviews Pennsylvania court cases and legislation, identifying those decisional or statutory changes which affect district justice procedure and necessitate amendments to the rules or other action by the Supreme Court.

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Index/SupCtCmtes/mcrc/
indexmrcr.asp](http://www.courts.state.pa.us/Index/SupCtCmtes/mcrc/indexmrcr.asp)

Reports

Prior to submitting a recommendation to the Supreme Court, the committee publishes the proposal and an explanatory "Report" that describes the proposal and gives members of the bench, bar and public an opportunity to comment on it. The proposals and reports are published in the *Pennsylvania Bulletin* and West's *Atlantic Reporter* advance sheets. Comments are also solicited directly from various associations and court-related agencies, including the Special Court Judges Association of Pennsylvania, the Minor Judiciary Education Board and the Administrative Office of Pennsylvania Courts.

All comments are considered and, when appropriate, proposals are modified before final submission to the Court. When the committee makes significant modifications to the initial draft of a proposal, the proposal may be republished for additional comments.

On occasion, proposals and reports may be submitted to the Court without publication, pursuant to Pennsylvania Rule of Judicial Administration 103(a)(3). This would occur in the interest of justice, when exigent circumstances warrant prompt action or because the proposed changes are technical or perfunctory in nature.

If a recommendation is adopted by the Supreme Court, the committee prepares a final explanatory report for publication with the Court's order. While the Court does not adopt the contents of the report, the report is a useful source of information about the rule changes and the committee's considerations in developing the recommendation.

Web Site

The Minor Court Rules Committee publishes its rule proposals and reports, the Supreme Court's orders promulgating rule changes, the text of the rule changes and the

"Final Reports" on the Unified Judicial System Web site. These documents may be found on the Supreme Court Committees page at www.courts.state.pa.us. A link to the full text of the Minor Court Civil Rules (Title 246 of the Pennsylvania Code) is also available on this page.

2004 Activities

The committee held four meetings in 2004.

The committee considered a number of issues in 2004 as follows:

- a proposal to amend Rule 209 and rescind Rules 320 and 511 to simplify and consolidate the rules relating to **continuances**. Published at 34 *Pa.B.*, page 480 (January 24, 2004).
- a proposal to amend or revise the Official Notes to Rules 1006, 1007, 1008, 1011 and 1013 to clarify that if an **award or judgment** has been entered in the Court of Common Pleas following *de novo* appellate proceedings, the case shall remain in the Court of Common Pleas and no further process, including orders of execution and orders for possession, may be issued by the district justice. Published at 34 *Pa.B.*, page 1933 (April 10, 2004).
- a proposal to rename Chapter 400 and adopt a new Rule 401.1 to provide for the **assignment of civil judgments**. Published at 34 *Pa.B.*, page 4022 (July 31, 2004).
- continued work on a joint project with the Criminal Procedural Rules Committee to study the question of whether district justices may issue **subpoenas** in blank.
- a review, in conjunction with the Civil Procedural Rules Committee (CPRC), of issues surrounding **appeals from district courts**.

- a proposal to change the method of **scheduling hearing dates** and to further provide for **notice of intention to defend** in civil actions.
- correspondence with the CPRC regarding the CPRC's proposed Recommendation No. 190 governing the **attachment of wages, salary, and commissions** to satisfy a money judgment arising from a residential lease pursuant to Section 8127(a)(3.1) of the Judicial Code.
- three recommendations of the 2001 Inter-governmental Task Force to Study the District Justice System that were referred to the committee by the Supreme Court.
- revisions to the rules in response to the passage of Act 207-2004 (SB904, PN1905), which changed the title "district justice" to "magisterial district judge" effective 1-29-05.

2004 Committee Action

The committee submitted four recommendations to the Supreme Court in 2004. The Court approved four recommendations. Three others were pending at the end of the year. A chart indicating the status of the recommendations in 2004 follows this report.

Recommendations Adopted by the Supreme Court

Recommendation No. 5, Minor Court Rules 2003: Amendment to Rule 314 to provide clarification regarding costs for **reinstating a complaint** and to make other technical amendments. Adopted 4-22-04, effective 7-1-04. See Order and Final Report at 34 *Pa.B.* 2464 (May 8, 2004).

Recommendation No. 6, Minor Court Rules 2003: Amendment to Rule 420 to provide clarification regarding the **relief** a district justice may grant in connection with objections to levy.

Adopted 4-22-04, effective 7-1-04. See Order and Final Report at 34 *Pa.B.* 2465 (May 8, 2004).

Recommendation No. 1, Minor Court Rules 2004: Amendment to Rule 209 and rescinding Rules 320 and 511 to further provide for and consolidate the rules regarding **continuances**. Submitted 4-24-04. Adopted 12-16-04, effective 7-1-05. See Order and Final Report at 35 *Pa.B.* 10 (January 1, 2005).

Recommendation No. 2, Minor Court Rules 2004: Amendment to Rule 416 to provide clarification regarding distribution of **proceeds of sale**. Submitted 8-4-04. Adopted 10-26-04, effective 1-1-05. See Order and Final Report at 35 *Pa.B.* 10 (January 1, 2005).

Recommendations Pending with the Supreme Court

Recommendation No. 2, Minor Court Rules 2003: New rules to implement the provisions of Act 100 of 2002, which amended the **Right-to-Know Law**. Submitted to the Court 4-17-03.

Recommendation No. 3, Minor Court Rules 2004: Amendments to Rules 202, 207, 315, 318, 324, 421, 511 and 514 and adoption of new Rule 207.1 regarding **definitions, representation** in district court proceedings, **attorneys of record** and **notices**. Submitted 8-10-04.

Recommendation No. 4, Minor Court Rules 2004: Renaming of Chapter 400 and adoption of new rule 401.1 to further provide for enforcement of **judgments, assignment of judgments** and **parties**. Submitted 12-22-04.

Looking Ahead to 2005

The committee's main focus at the beginning of 2005 will be continued revisions to the rules in response to the passage of Act

207-2004. In addition, the committee will be devoting considerable time to its proposal to change the method of scheduling hearing dates and to further provide for notice of intention to

defend in civil actions. It will also continue to work with the Civil and Criminal Procedural Rules Committees on a number of matters of mutual concern. AOPC

Status of Recommendations		
Recommendation	Subject	Status
2, 2003	Implementation of Act 100 of 2002, the Right-to-Know Law	Submitted 4-17-03
5, 2003	Amendment to Rule 314 to provide clarification regarding costs for reinstating a civil complaint; other technical changes	Adopted 4-22-04, effective 7-1-04
6, 2003	Amendment to Rule 420 to provide clarification regarding relief a district justice may grant in connection with objections to levy; technical changes	Adopted 4-22-04, effective 7-1-04
1, 2004	Amendment to Rule 209, rescission of Rules 320 and 511 to further provide for and consolidate the rules regarding continuances	Adopted 12-16-04, effective 7-1-05
2, 2004	Amendment to Rule 416 to provide clarification regarding distribution of proceeds of sale	Adopted 10-26-04, effective 1-1-05
3, 2004	Amendments to Rules 202, 207, 315, 318, 324, 421, 511 and 514, adoption of new Rule 207.1 regarding definitions, representation in district court proceedings, attorneys of record and notices	Submitted 8-10-04
4, 2004	Renaming of Chapter 400, adoption of new rule 401.1 to further provide for enforcement of judgments, assignment of judgments and parties	Submitted 12-22-04

Table 3.12.1

2004 Membership:

Honorable Daniel B. Garber, *Chairman*
Honorable James J. Dwyer, III, *Vice Chairman*
Honorable Robert E. Simpson, Jr., *Secretary*
Honorable Catherine M. Hummel, *Treasurer*
Gregory E. Dunlap, Esq.
Jerry J. Russo, Esq.

Staff:

Robert E. Hessler, *Executive Director*

Legal Authorization:

Pa. Constitution, Article V, § 12
42 Pa. C.S., § 31
42 Pa. C.S., § 2131
42 Pa. C.S., § 3118

About the Board:

Article V, §12 of the Pennsylvania Constitution requires that district justices and judges of the Philadelphia Traffic Court either be members of the bar of the Supreme Court or, before taking office, complete a course and pass an examination in the duties of their respective offices. It is the responsibility of the Minor Judiciary Education Board (MJEB) to instruct and certify individuals wishing to become district justices, Philadelphia Traffic Court judges or Philadelphia Bail Commissioners. The board approves the curriculum, appoints and evaluates instructors, establishes course content, reviews all tests, and issues certificates to successful program participants.

In addition, the board conducts one-week continuing education classes for district justices, Philadelphia Traffic Court judges, Philadelphia Bail Commissioners and for those individuals who wish to maintain a current certification in one or more of these areas. It also conducts a one-week practicum, or orientation course, for newly elected or appointed district justices.

The board has seven members, who are appointed by the governor with a two-thirds approval by the Senate.

Minor

Judiciary

Education

Board

3301 Black Gap Road,
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(717) 263-0691
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2004 Curriculum

- criminal law
- Racial and Gender Bias in the Justice System
- search and seizure

Four-Week District Justice Certifying Course

- criminal law and procedure
- civil law and procedure
- Rules of Evidence
- judicial ethics
- motor vehicle law
- arrest/search and seizure
- Pennsylvania Drug/Device and Cosmetics Act
- Pennsylvania crimes code

Orientation Course for New District Justices

- District Justice System panel
- District Justice Practices
- office administration
- human behavior
- mental illness awareness
- sexual violence
- domestic violence

Continuing Education for District Justices

Class requirements are 32 hours per year and were offered over 17 scheduled weeks.

- review and update of civil and criminal procedure
- Motor Vehicle Code
- sexual assault
- bankruptcy
- ethics
- Racial and Gender Bias in the Justice System
- computer crimes

Philadelphia Traffic Court Judges

- court procedures
- Philadelphia Traffic Court Administration
- Pennsylvania Motor Vehicle Code review and update
- Mental Illness & the Criminal Justice System
- Racial and Gender Bias in the Justice System

Statistics

Minor Judiciary Education Board statistics for 2004 can be found in the chart at the bottom of this page. AOPC

Philadelphia Bail Commissioners

- sexual assault
- National Alliance for the Mentally Ill Training Institute

2004 Educational Statistics	
Continuing education to district justices & senior district justices	598
Continuing legal education to attorney district justices	127
District justice recertification	106
Certification classes to prospective district justices (32 of whom were certified)	69
Certification of prospective Philadelphia Bail Commissioners	2
Certification of prospective Traffic Court judges	0

Table 3.13.1

2004 Membership:

Honorable John M. Cascio, *Chair*
Mary Jane Barrett, Esq.
Richard E. Flannery, Esq.
Kenneth E. Lewis, Esq.
Edward S. McKenna, Esq.
Honorable Joseph D. O’Keefe
Honorable Eunice L. Ross
Carolyn Crandall Thompson, Esq., *ex officio*

Staff:

Dean R. Phillips, Esq., *Chief Counsel*
Rebecca M. Darr, Esq., *Deputy Counsel*
Elizabeth J. Knott, *Administrative Assistant*

Legal Authorization:

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

About the Committee

The Orphans’ Court Procedural Rules Committee responds to developments in orphans’ court procedure and reviews current rules governing statewide practice and procedure in the orphans’ court, recommending new rules as necessary.

Orphans’

Court

Procedural

Rules

Committee

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www.courts.state.pa.us/
Index/SupCtCmtes/
orphctrules/
indexorphctrules.asp

2004 Activities

The committee published 17 forms in electronic format (e-forms) which it proposes to recommend for use before the Commonwealth orphans' court divisions and registers of wills. The e-forms are intended to promote uniformity and standardize the content of pleadings and forms across the state without supplanting local forms. The committee hopes to submit the forms to the Supreme Court for adoption by the end of 2005.

Additionally in 2004, the committee submitted a recommendation proposing new Rule 3.7 enabling judicial districts, if they so choose, to implement the electronic filing of orphans' court documents. This recommendation was adopted 10-18-04, effective immediately. As of January 1, 2005, the first orphans' court electronic filing project in Pennsylvania will be operational in the orphans' court division of the Philadelphia Court of Common Pleas.

The committee also considered issues regarding:

- Pa. O.C.R. 6.12 (Status Report by Personal Representative)
- sanctions for failure to file inventory related to Section 3301(c) of the Probate, Estates and Fiduciaries Code
- a fiduciary's power to act after an appeal has been taken.

Finally, the committee continued to review Chapter 15 of the Orphans' Court

Procedural Rules, the current adoption code and pending legislation to amend the adoption code. The committee also considered issues raised by the Safe Families Act and monitored proposed legislation pertaining to foreign adoptions.

2005 Plans

Among the subjects of the committee's agenda for 2005 are

- completion of the above-named projects
- publication and submission of a joint recommendation with the Appellate Court Procedural Rules Committee seeking to amend Pa.R.A.P. 342 and 313 in light of several recent Superior Court panel decisions that have caused concern over the appealability of certain orphans' court matters
- submission of a proposed revision of O.C.R. 5.6 to clarify that the rule's notice requirement does not confer procedural or substantive rights on any person to whom the rule requires a fiduciary to give notice
- continued monitoring of adoption bills pending in the legislature
- changes to the Orphans' Court Rules to reflect the elimination of the rules of equity by the Civil Procedural Rules Committee
- consideration of a rule enabling mediation in orphans' court matters. AOPC

2004 Membership:

Carl D. Buchholz, III, Esq., *Board Chair*
Zygmunt R. Bialkowski, Jr., Esq.
Joseph H. Jacovini, Esq.
Beth Lang
Maureen Murphy McBride, Esq.
James M. Mead
Morris M. Shuster, Esq.

Staff:

Kathryn J. Peifer, Esq., *Executive Director*
Lisa A. Watkins, Esq., *Counsel*
Susan L. Erdman, *Administrative Assistant*

Legal Authorization:

Pa. Constitution, Article V, § 12
Pennsylvania Rules of Disciplinary Enforcement, §501 *et seq.*

About the Board

The Pennsylvania Lawyers Fund for Client Security was established by the Pennsylvania Supreme Court in 1982 as a means of helping clients recover some or all losses of money and/or property stolen from them by their attorneys. It is funded by a special annual assessment (\$45 for 2004-05) paid by any attorney admitted to practice law in Pennsylvania. Clients may receive up to \$75,000 for any claim.

The fund is supervised by the Pennsylvania Lawyers Fund for Client Security Board. This board includes five members of the bar of the Supreme Court and two non-lawyer public members. Each member's term is three years in length, and a member may serve a maximum of two consecutive terms.

Pennsylvania

Lawyers

Fund

for

Client

Security

4909 Louise Drive,
Suite 101
Mechanicsburg, PA 17055
(717) 691-7503
(800) 962-4618
fax (717) 691-9005
www.palawfund.com

2004 Claims Statistics

Statistics for the 2004-05 fiscal year can be found in Table 3.15.1. Chart 3.15.2 on page 89 is a breakdown of amounts claimed by category. Chart 3.15.3 on page 90 gives comparisons of claims awarded versus claims rejected, both in terms of numbers and dollar amounts. Chart 3.15.4 on page 91 is a comparison of claims awarded, rejected and discontinued, both cumulatively and in 2004-05.

<u>Claims</u>	<u>No.</u>	<u>Amount</u>
Received	199*	\$6,746,249
<small>*17 in excess of \$75,000 limit</small>		
Awarded	191	1,966,412
Rejected	54	847,977
Discontinued	14	271,954
Total	259	\$3,086,343
Pending	177	\$7,194,574

Table 3.15.1

Claims Categories

Fiduciary funds - Theft of estate funds and trust/escrow funds consistently tops the list of claims filed against attorneys. Combined, these two types of theft during FY 2004-05 cost the fund \$1,343,324, 68.31 percent of its total award dollars, settling 61 claims. Of this amount \$270,823 went to eight former clients of one attorney.

Non-performance* - The acceptance of un-earned fees or retainers represented the third highest payment category in 2004-05 with awards to 116 claimants totaling \$258,568, 13.15 percent of the total dollars awarded. Of this amount, 19 former clients of one attorney received \$124,182.

*Since the fund does not arbitrate fee disputes, for an award to be considered when the attorney performed any services of value, the claimant typically must first file a complaint with the local bar association's fee dispute committee. If the committee determines that all or a portion of the fees or retainer paid were not earned, and the attorney does not return the fee, the board will consider this type of claim and categorize the award as non-performance by the attorney.

Lawsuit Settlement Proceeds - Claims of misappropriation of settlement proceeds often occur when an attorney settles a lawsuit without the knowledge or consent of the client. The attorney receives the funds and fails to remit them to

the client. Also included in this category are claims involving attorneys who withhold funds from settlement proceeds to pay clients' medical providers and fail to make the payment/s. Payments of \$199,015 to ten claimants fitting this category were made in 2004-05, 10.12 percent of the total dollars awarded. Of this, \$95,785 were paid to two former clients of one attorney.

Notwithstanding the award amounts reported, it should be noted that claims are filed against fewer than one percent of all Pennsylvania licensed attorneys.

2004 Activities

During the year the board met in Hershey, Pittsburgh and Philadelphia.

Restitution and Subrogation Efforts

The fund received \$118,283 in restitution payments during FY 2004-05.

Mandatory Overdraft Notification

Pennsylvania Rule of Disciplinary Enforcement 221 requires financial institutions to report to the fund all checks drawn on attorney fiduciary accounts which contain insufficient funds. In 2004-05 the fund received 225

overdraft notices, 190 of which were reviewed and dismissed and 26 of which were referred to the Office of Disciplinary Counsel. Nine notices remained pending at the end of the fiscal year.

County Bench, Bar Meetings

The board has been holding meetings and dinners with leaders of the county benches and bars in conjunction with the board's quarterly business meetings since 1989. These meetings keep the county bench and bar leaders informed about the fund's activities, both statewide and regionally, and request the assistance of the bench and bar in carrying out the fund's mission. In 2004 and 2005 the fund met with Allegheny, Dauphin and Philadelphia Counties.

Lawyers Concerned for Lawyers

With prior approval of the Supreme Court, the Pennsylvania Lawyers Fund for Client Security may provide funding to nonprofit organizations that assist Pennsylvania lawyers and judges who are impaired by alcohol or drugs. In accordance with this rule, during FY 2004-05 \$245,000 of funding was given to the organization known as Lawyers Concerned for Lawyers. Such assistance complements the fund's mission to ameliorate losses resulting from attorney dishonesty as oftentimes when an attorney converts client funds, the conduct is related to substance abuse. The financial support for Lawyers Concerned for Lawyers helps to mitigate the losses by providing a resource for impaired attorneys. **AOPC**

Categories of Claims

Amounts Awarded
2004-05

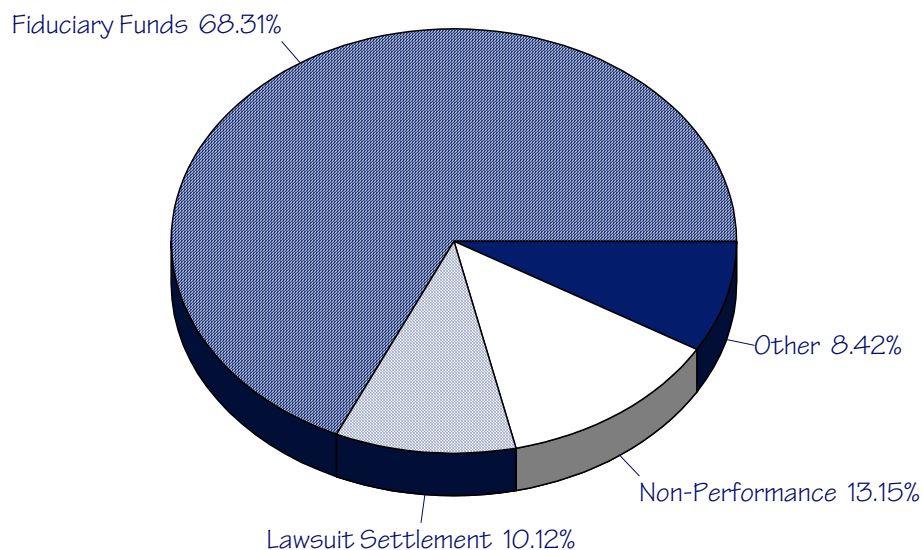
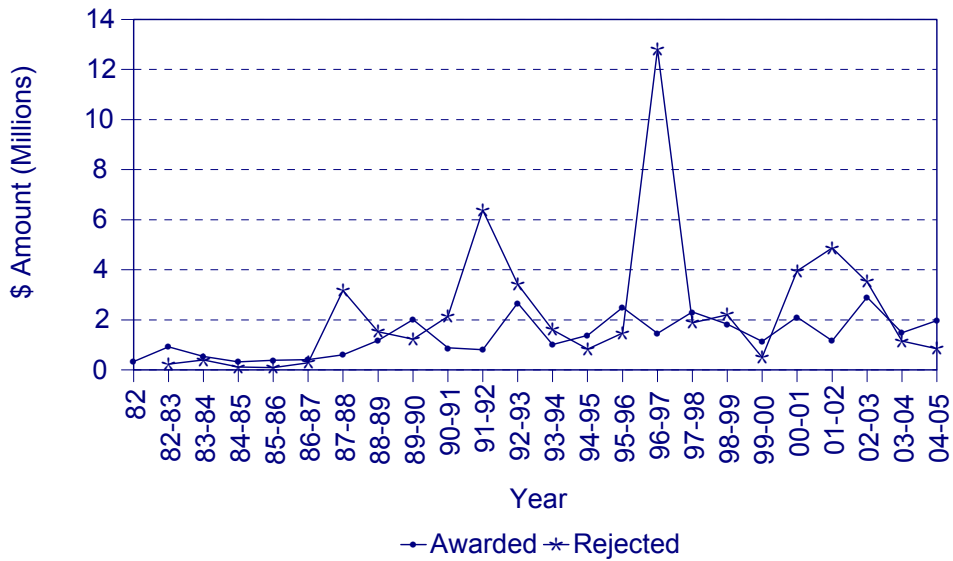


Table 3.15.2

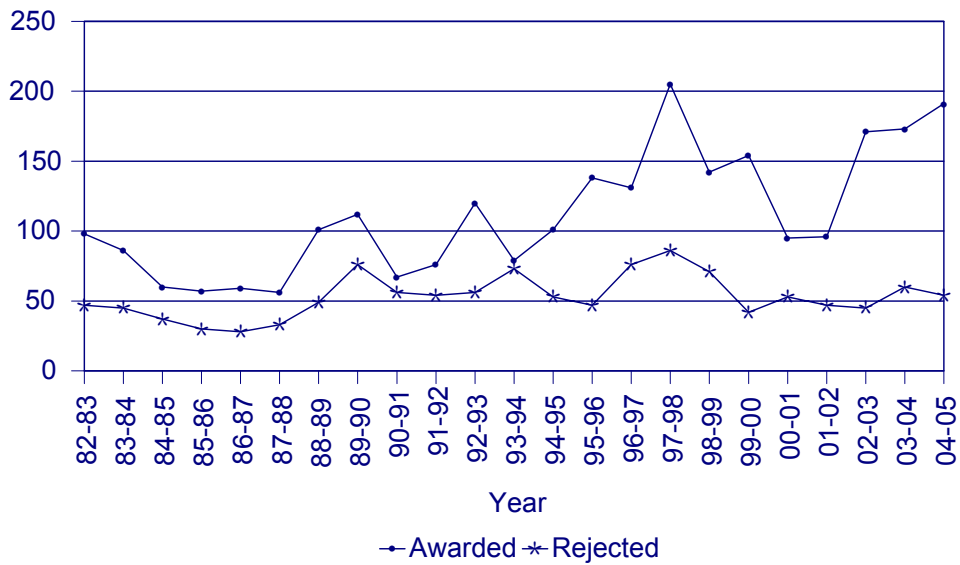
Claim Awards v. Rejections

1982-2005



Claims Awarded v. Rejections

1982-2005

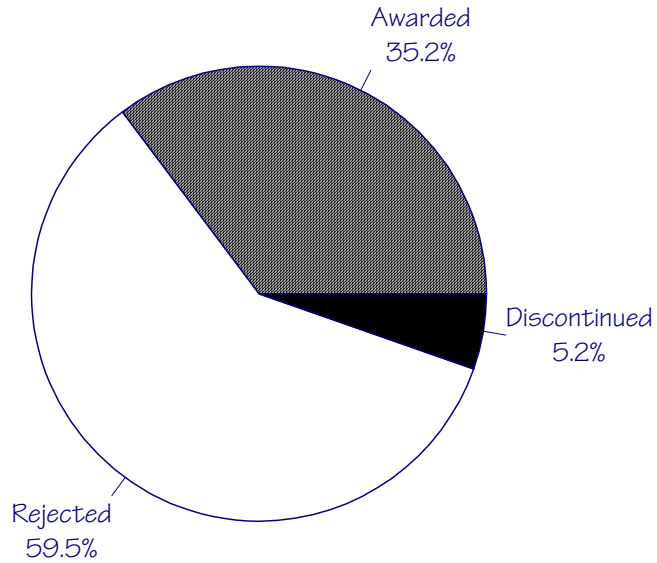


Effective 7-1-00, the maximum reimbursable amount was raised from \$50,000 to \$75,000.

Table 3.15.3

Comparison of Claim Dispositions

Cumulative



2005

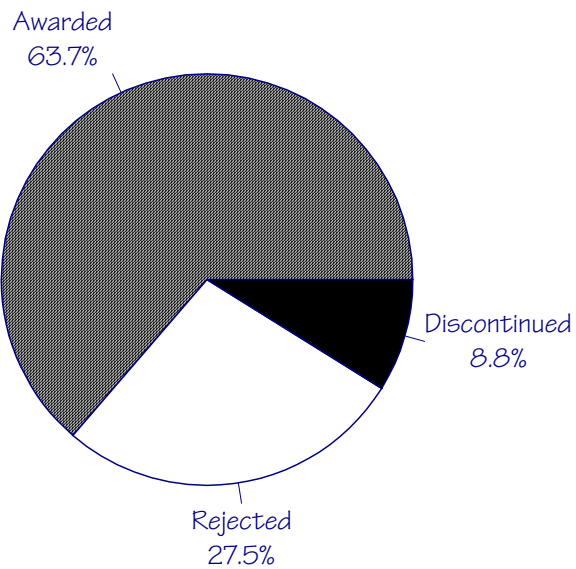


Table 3.15.4



Of the total state government expenditures for fiscal year 2004-05, *administrative costs for the judiciary accounted for approximately one-half of one percent.* Table 4.1 on page 95 shows the distribution of expenditures across the three branches of government. (With the county reimbursement grant discussed below, the judiciary accounts for approximately 0.59 percent of total state government expenditures.)

Funding for the Unified Judicial System derives from both state and county appropriations. The state pays the salaries for all judicial officers as well as the personnel and operating costs of the entire appellate court system, including the committees of the Supreme Court and the Administrative Office of Pennsylvania Courts. Beginning January 1, 2000, in accordance with Act 12 of 1999, the Commonwealth also funds the salaries and benefits for district court administrators transferred to state service effective that date. Table 4.2 on page 96 provides a break-down of the state appropriations for fiscal year 2004-05.

County Reimbursement Program

The Commonwealth also provides reimbursement to the counties for costs incurred in support of the Common Pleas Courts. Counties are reimbursed for a percentage of juror costs incurred when a trial or grand jury proceeding lasts longer than three days.

In addition, counties have traditionally been reimbursed for personnel and operating costs associated with the administration of the Courts of Common Pleas. Reimbursement is based on a flat rate established by the General Assembly for each authorized Common Pleas judge position.

For each Common Pleas judge position, the General Assembly also requires that counties spend an amount at least equal to the flat reimbursement rate per judge, which was \$70,000 for FY 2004-05.

Court

Finances -

Fiscal

Year

2004-2005

A new grant was created and funded in fiscal year 2001-02 to partially reimburse counties for expenses they incur to provide support -- facilities and staff services -- to assigned Common Pleas senior judges in accordance with Pennsylvania Rule of Judicial Administration (R.J.A.) 701(F). Act 88 of 2001 served as the enabling legislation for the Senior Judge Support Reimbursement Grant. This grant has been funded each year since its inception.

Table 4.3 on page 98 identifies the amounts of reimbursement provided to each county, by grant program, for fiscal year 2004-05.

One exception to the current funding pattern is the Pittsburgh Magistrates Court, whose costs, until it was merged into the existing district justice system within Allegheny County January 1, 2005, as part of the decennial realignment of magisterial districts by the Supreme Court, were borne by the City of Pittsburgh. In fiscal year 1995-96, however, the Commonwealth for the first time reimbursed the city for costs related to the Magistrates Court by the payment of a \$1.2 million grant. Grant money was provided to Pittsburgh for this purpose each year until FY 2000-01, when the grant was not funded. Funding was restored in FY 2001-02 at the \$1.2 million level, but was not funded subsequently.

Local, State Government Revenue

The Unified Judicial System is a source of considerable revenue to local and state government. An example of this revenue can be found in Table 4.4 on page 100, which lists fees collected by the appellate courts, the Minor Judiciary Education Board and the Pennsylvania Board of Law Examiners. Appropriated by the General Assembly, these fees are used to support state-funded court operations.

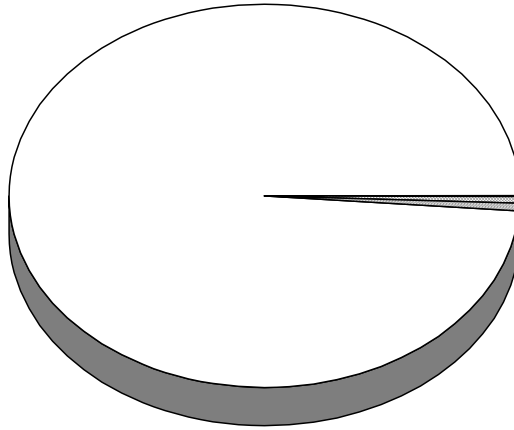
Although exact figures are not available, the court system raises millions of dollars in revenue for local municipalities. Depending on the police department (local or state) from which a citation is issued, a portion of fines collected is disbursed to local political subdivisions after adjudication within the Unified Judicial System. Some examples of these fines include traffic violations under the vehicle code, violations of local ordinances and certain violations of summary offenses.

Counties also receive court-collected fines, fees and costs. Fees are generated in connection with the commencement of actions or the filing of liens, appeals and accounts, etc. On an annual basis, the collections amount to tens of millions of dollars. The monies are collected by courts at all levels of the system.

Finally, a portion of the revenues collected by the courts is earmarked for the state. Some of these funds are program specific, e.g., Pennsylvania's Emergency Medical Fund and the Crime Victims' Compensation Board. Others are used, through Act 64 of 1987 and Act 59 of 1990, as amended by Act 122 of 2002, to provide funding for the statewide Judicial Computer System. Still other monies collected, such as motor vehicle fines, revert to state general use.

As part of the reform of the judicial discipline process, the Judicial Conduct Board and the Court of Judicial Discipline were established as independent organizations responsible for their own affairs, including financial matters. Pursuant to Act 56 of 1993, however, their annual budget requests are made as separate line items in the Supreme Court's request to the General Assembly on behalf of the judicial branch. AOPC

Pennsylvania Government FY 2004-05 General, Special, Federal & Other Funds Expenditures



- Executive Branch - 98.80%
- ▒ Legislative Branch - .61%
- ▓ Judicial Branch - .52%
- County Reimbursement for Courts - .07%

Totals shown exclude capital budget.

Note: The governor's budget showed FY 2004-05 funds available to the judiciary as \$306,975,000. Actual total available funds available net of \$2,438,000 lapsed during June 2005, were \$304,749,000. The state total operating expenditures shown here were adjusted upward to reflect this difference.

Source: FY 2005-06 Governor's Recommended Budget

Table 4.1

Appropriations	
Appropriation	2004-05 (thousands)
Supreme Court	\$13,151
Justices' Expenses	180
Civil Procedural Rules Committee*	423
Criminal Procedural Rules Committee*	430
Domestic Relations Procedural Rules Committee*	203
Judicial Council*	340
Juvenile Court Procedural Rules Committee*	198
Appellate Court/Orphans' Court Procedural Rules Committees*	180
Committee on Rules of Evidence	169
Minor Court Rules Committee	178
Superior Court	26,679
Judges' Expenses	237
Commonwealth Court	16,060
Judges' Expenses	143
Court Administrator	8,945
District Court Administrators#	16,000
Court Management Education#	157
Unified Judicial System Security**	5,156
Statewide Judicial Computer System+	42,065
Integrated Criminal Justice System	2,095
Courts of Common Pleas*	68,436
Common Pleas Senior Judges#	3,996
Common Pleas Judicial Education	953
Ethics Committee of the Pennsylvania Conference of State Trial Judges	40
District Justices*	55,282
District Justice Education	605
Philadelphia Traffic Court*	840
Philadelphia Municipal Court#	5,061
Philadelphia Law Clerks	39
Domestic Violence	204
County Court Reimbursement#	32,126
Philadelphia Gun Court Reimbursement Grant++	525
Senior Judge Support Reimbursement#	2,000

continued...

Table 4.2

Appropriations, continued

Appropriation	2004-05 (thousands)
Juror Cost Reimbursement*	1,369
Judicial Conduct Board	1,202
Court of Judicial Discipline	451
Total	\$306,118

* As authorized by Act 7-A of 2004, funds were transferred from other judiciary appropriations and deposited into the JCS restricted receipt account in the following amounts: Criminal Procedural Rules - \$15,000, Civil Procedural Rules - \$120,000, Domestic Relations Procedural Rules - \$14,000, Judicial Council - \$60,000, Juvenile Court Procedural Rules - \$5,000, Appellate Court/Orphans' Court Procedural Rules - \$6,000, Courts of Common Pleas - \$1,974,000, District Justices - \$2,894,000, Philadelphia Traffic Court - \$144,000, and Juror Cost Reimbursement - \$126,000, for a total of \$5,358,000. These transfers reduced the funds available to the respective appropriations, but did not reduce the various appropriated amounts.

** The unspent funds (\$4.666 million) remaining in the FY 2004-05 UJS Security appropriation as of June 30, 2005, were made into a continuing appropriation by Act 1-A of 2005.

+ The statewide Judicial Computer System (JCS) is funded through a restricted account in accordance with Act 64 of 1987 and Act 59 of 1990 as amended by Act 122 of 2002. The funds in the account are supplemented periodically by the transfer of available surplus funds at year end from certain UJS appropriations as authorized by the annual appropriation acts. The full amount of the FY 2004-05 \$42,065,000 appropriation was drawn from the restricted receipt account, consisting of \$35,638,000 of Act 64/Act 59/Act 122 funds and \$6,427,000 in FY 2003-04 funds transferred to the restricted receipt account from other judiciary appropriations in accordance with Act 9-A of 2003. An additional \$84,000 was derived from fees charged to users for information generated by the District Justice System, and \$112,500 was derived from augmentations as mandated by Act 119 of 1996 (Jen and Dave's Law). The total amount available to the JCS in FY 2004-05 was \$42,261,500.

++ The appropriation for the Philadelphia Gun Court Reimbursement Grant is a two-year continuing appropriation extending through June 30, 2006.

Funds were lapsed during the fiscal year for the following appropriations: District Court Administrators - \$965,000, Court Management Education - \$88,000, Common Pleas Senior Judges - \$404,000, Philadelphia Municipal Court - \$301,000, County Court Reimbursement - \$673, Senior Judge Support Reimbursement - \$679,180. The lapses reduced the funds available to the respective appropriations, but did not reduce the various appropriated amounts.

Table 4.2, cont'd.

**County Reimbursements for Courts
FY 2004-05**

County	Juror Cost	County Court	Senior Judge	Total
Adams	\$593.99	\$210,000.00	\$228.00	\$210,821.99
Allegheny	118,646.03	2,870,000.00	201,952.00	3,190,598.03
Armstrong	4,393.15	140,000.00	0.00	144,393.15
Beaver	3,218.12	420,000.00	38,154.00	461,372.12
Bedford	2,479.04	140,000.00	0.00	142,479.04
Berks	16,825.54	840,000.00	159,820.00	1,016,645.54
Blair	3,045.06	280,000.00	5,928.00	288,973.06
Bradford	0.00	140,000.00	0.00	140,000.00
Bucks	27,735.29	770,000.00	58,436.00	856,171.29
Butler	10,959.74	350,000.00	32,932.00	393,891.74
Cambria	0.00	350,000.00	0.00	350,000.00
Cameron	0.00	10,500.00	174.00	10,674.00
Carbon	1,534.75	140,000.00	318.00	141,852.75
Centre	2,339.35	210,000.00	0.00	212,339.35
Chester	13,852.51	770,000.00	23,004.00	806,856.51
Clarion	2,466.32	70,000.00	8,160.00	80,626.32
Clearfield	340.48	140,000.00	5,664.00	146,004.48
Clinton	5,816.53	140,000.00	0.00	145,816.53
Columbia	0.00	109,200.00	0.00	109,200.00
Crawford	4,124.63	210,000.00	2,146.00	216,270.63
Cumberland	17,220.70	350,000.00	0.00	367,220.70
Dauphin	47,275.99	560,000.00	0.00	607,275.99
Delaware	29,287.49	1,260,000.00	30,144.00	1,319,431.49
Elk	291.96	59,500.00	2,188.00	61,979.96
Erie	11,558.91	630,000.00	0.00	641,558.91
Fayette	11,836.86	350,000.00*	10,704.00	372,540.86
Forest	0.00	14,000.00	204.00	14,204.00
Franklin	1,769.03	252,000.00	0.00	253,769.03
Fulton	706.62	28,000.00	0.00	28,706.62
Greene	3,284.95	140,000.00	0.00	143,284.95
Huntingdon	358.06	70,000.00	0.00	70,358.06
Indiana	2,558.09	140,000.00	162.00	142,720.09
Jefferson	6,238.90	70,000.00	4,220.00	80,458.90
Juniata	0.00	47,600.00	936.00	48,536.00
Lackawanna	10,551.37	490,000.00	97,018.00	597,569.37
Lancaster	18,012.50	840,000.00	7,416.00	865,428.50
Lawrence	2,138.30	280,000.00	0.00	282,138.30
Lebanon	1,222.16	280,000.00	0.00	281,222.16
Lehigh	33,370.87	630,000.00	21,000.00	684,370.87

continued...

Table 4.3

**County Reimbursements for Courts, continued
FY 2004-05**

County	Juror Cost	County Court	Senior Judge	Total
Luzerne	22,529.91	630,000.00	99,500.00	752,029.91
Lycoming	8,494.32	350,000.00	1,864.00	360,358.32
McKean	0.00	70,000.00	1,690.00	71,690.00
Mercer	7,332.22	210,000.00	1,174.00	218,506.22
Mifflin	0.00	70,000.00	1,448.00	71,448.00
Monroe	16,860.05	350,000.00	1,824.00	368,684.05
Montgomery	5,617.38	1,400,000.00	54,856.00	1,460,473.38
Montour	0.00	30,800.00	0.00	30,800.00
Northampton	17,540.36	490,000.00	41,900.00	549,440.36
Northumberland	1,169.04	210,000.00	9,904.00	221,073.04
Perry	0.00	92,400.00	1,824.00	94,224.00
Philadelphia	671,681.74	10,075,327.00	277,924.00	11,024,932.74
Pike	654.66	70,000.00	10,074.00	80,728.66
Potter	2,316.29	70,000.00	0.00	72,316.29
Schuylkill	3,060.54	420,000.00	0.00	423,060.54
Snyder	9,980.08	65,800.00	0.00	75,780.08
Somerset	4,970.54	210,000.00	0.00	214,970.54
Sullivan	0.00	13,300.00	0.00	13,300.00
Susquehanna	2,619.11	70,000.00	0.00	72,619.11
Tioga	0.00	70,000.00	920.00	70,920.00
Union	1,673.00	74,200.00	0.00	75,873.00
Venango	4,315.20	140,000.00	3,344.00	147,659.20
Warren	6,709.75	126,000.00	4,446.00	137,155.75
Washington	6,540.56	350,000.00	61,268.00	417,808.56
Wayne	172.91	70,000.00	0.00	70,172.91
Westmoreland	15,241.74	770,000.00	12,380.00	797,621.74
Wyoming	0.00	56,700.00	0.00	56,700.00
York	17,467.31	770,000.00	23,5872.00	811,039.31
Transfer to JCS	126,000.00	0.00	0.00	126,000.00
Lapse	0.00	673.00	679,180.00	679,853.00
Total	\$1,369,000.00	\$32,126,000.00	\$2,000,000.00	\$35,495,000.00

Funding Methodologies:

*Reduced by one temporary judge serving for FY 2003-04 only, as per Act 28 of 2001.

Juror Cost - The grant reimburses counties for 80% of the amounts they expend for compensation and travel allowances to jurors participating in a trial or grand jury proceedings after the first three days of service.

continued...

Table 4.3, cont'd.

**County Reimbursements for Courts, continued
FY 2004-05**

Funding Methodologies, continued:

County Court - The grant provides reimbursement for costs associated with the administration and operation of the Courts of Common Pleas. For FY 2004-05, the reimbursement was paid at a rate of \$70,000 per authorized Common Pleas position whether filled or vacant. In order for counties to receive the full reimbursement, they must provide a level of support at least equal to the reimbursement rate per authorized position. Nevertheless, no county will receive less than 77.5% of the actual reimbursement for court costs provided to it from state funds appropriated for the fiscal year July 1, 1980, to June 30, 1981.

Senior Judge - The grant provides partial reimbursement for expenses counties incur to provide support -- facilities and staff services -- to assigned Common Pleas Court senior judges in accordance with Rule of Judicial Administration 701. Facilities include the use of judicial chambers, office equipment and supplies. Staff services include the services of law clerks and secretaries. The use of facilities is reimbursed at the current statutory rate of \$60 per day, billable in half-day increments. Services of a secretary are reimbursed at \$12 per hour and the services of a law clerk at \$20 per hour. For FY 2004-05 the grant was paid based on requests for reimbursement submitted by counties for costs incurred during calendar year 2004.

Table 4.3, cont'd.

Fees That Support State Operations

Appropriation	2004-05 (thousands)
Supreme Court	\$405
PA Board of Law Examiners	1,797
Judicial Computer System*	197
Superior Court	222
Commonwealth Court	192
District Justice Education	37
Court Management Education	9
Court Administrator	7
Total	\$2,866

*Includes revenues collected under Act 119 of 1996 (Jen and Dave's Law). These collections provided \$112,500 to support the "Jen/Dave" functions during FY 2004-05. The remainder was derived from public access fees levied on nongovernmental users of information captured by the District Justice System.

Table 4.4

Supreme Court Justices

Complement 7

Cappy, Ralph J.
Chief Justice

Castille, Ronald D.
Nigro, Russell M.
Newman, Sandra Schultz

Saylor, Thomas G.
Eakin, J. Michael
Baer, Max

Superior Court Judges

Complement 15

Del Sole, Joseph A.
President Judge

Hudock, Joseph A.
Ford Elliott, Kate
Joyce, Michael T.
Stevens, Correale F.
Musmanno, John L.
Orie Melvin, Joan
Lally-Green, Maureen

Todd, Debra B.
Klein, Richard B.
Bender, John T.
Bowes, Mary Jane
Gantman, Susan Peikes
McCaffery, Seamus P.
Panella, Jack A.

Commonwealth Court Judges

Complement 9

Colins, James Gardner
President Judge

McGinley, Bernard L.
Smith-Ribner, Doris A.
Pellegrini, Dante R.
Friedman, Rochelle S.

Leadbetter, Bonnie Brigance
Cohn Jubelirer, Renée
Simpson, Robert E., Jr.
Leavitt, M. Hannah

Appellate

Court

Judges

(As of 6-30-05)

**Appellate
Court
Senior
Judges**

**Superior Court
Senior Judges**

Beck, Phyllis W.
Cavanaugh, James R.*
Johnson, Justin M.
Kelly, John T.J., Jr.
McEwen, Stephen J., Jr.
Montemuro, Frank J., Jr.
Olszewski, Peter Paul
Popovich, Zoran
Tamilia, Patrick R.

* Died 8-13-04

**Commonwealth
Court Senior
Judges**

Feudale, Barry F.++
Flaherty, James J.
Juliante, Jessamine S.**
Kelley, James R.
McCloskey, Joseph F.+
Mirarchi, Charles P., Jr.*
Quigley, Keith B.#

* A Philadelphia County senior Common Pleas judge assigned to Commonwealth Court; retired 12-31-04

** Erie County senior Common Pleas judge assigned to Commonwealth Court

+ Schuylkill County senior Common Pleas judge assigned to Commonwealth Court

++ Northampton County senior judge; sits on occasion in Commonwealth Court

Perry-Juniata Counties senior judge; sits on occasion in Commonwealth Court

(As of 6-30-05)

ADAMS COUNTY (51)

Complement 3

Kuhn, John D.
Bigham, Robert G.
George, Michael A.

ALLEGHENY COUNTY (05)

Complement 41

James, Joseph M.

Administrative Judges

Lucchino, Frank J.
McDaniel, Donna Jo
Scanlon, Eugene F., Jr.
Wettick, R. Stanton, Jr.

Allen, Cheryl Lynn
Baldwin, Cynthia A.
Bigley, Gerard M.**
Borkowski, Edward J.+
Cashman, David R.

Clark, Kim Berkeley
Colville, Robert E.
Colville, Robert J.
De Angelis, Guido A.
Della Vecchia, Michael A.

Durkin, Kathleen A.
Eaton, Kim D.
Folino, Ronald W.
Friedman, Judith L.A.
Gallo, Robert C.

Hertzberg, Alan David+
Horgos, Robert P.
Kelly, Robert A.
Little, Walter R.
Lutty, Paul F., Jr.

Machen, Donald E.
Manning, Jeffrey A.
Mazur, Lee J.
McCullough, Patriai A.+
Mulligan, Kathleen R.

Nauhaus, Lester G.
O'Brien, W. Terrence
O'Reilly, Timothy Patrick

O'Toole, Lawrence J.
Penkower, Alan S.*

Rangos, Jill E.
Sasinoski, Kevin G.
Strassburger, Eugene B., III
Todd, Randal B.
Ward, Christine A.

Wecht, Dav'id N.
Zottola, John A.

* Resigned 8-31-04
** Resigned 1-2-05
+ Appointed 3-14-05

ARMSTRONG COUNTY (33)

Complement 2

Nickleach, Joseph A.
Valasek, Kenneth G.

BEAVER COUNTY (36)

Complement 6

Kunselman, Robert E.
Dohanich, John P.
James, George E.
Kwidis, C. Gus
Mancini, Richard
McBride, John D.

BEDFORD COUNTY (57)

Complement 2

Howsare, Daniel L.
Ling, Thomas S.

BERKS COUNTY (23)

Complement 12

Grim, Arthur E.
Bucci, James M.
Campbell, Mary Ann
Eshelman, Thomas J.
Keller, Scott D.

Common

Pleas

Judges

As of 6-30-05)

(Judicial District listed
in parentheses)

(*Italics denotes
President Judge*)

BERKS COUNTY, continued

Lash, Scott E.
 Lieberman, Stephen B.
 Ludgate, Linda K.M.
 Parisi, Thomas G.
 Schmehl, Jeffrey L.

 Schmehl, Peter W.
 Sprecher, Jeffrey K.

BLAIR COUNTY (24)

Complement 4

Peoples, Thomas G., Jr.
 Carpenter, Hiram A., III
 Doyle, Elizabeth A.
 Kopriva, Jolene Grubb

BRADFORD COUNTY (42)

Complement 2

Smith, Jeffrey A.
 Mott, John C.

BUCKS COUNTY (07)

Complement 13

Heckler, David W.
 Biehn, Kenneth G.
 Boylan, Rea Behney
 Cepparulo, Albert J.
 Fritsch, C. Theodore, Jr.

Goldberg, Mitchell S.
 Kane, Michael J.
 Lawler, Daniel J.
 Mellon, Robert J.
 Rubenstein, Alan M.

Rufe, John J.
 Scott, Susan Devlin
 Waite, Clyde W.

BUTLER COUNTY (50)

Complement 5

Doerr, Thomas J.
 Hancher, George H.
 Horan, Marilyn J.
 Shaffer, William R.
 Yeager, S. Michael

CAMBRIA COUNTY (47)

Complement 5

Long, Gerard
 Creany, Timothy P.
 DiFrancesco, James R.**
 Krumenacker, Norman A., III
 Leahy, Francis J.

Swope, Thomas A., Jr.*

* Retired 12-31-04
 ** Appointed 6-28-05

CARBON COUNTY (56)

Complement 2
 Vacancy 1

*Webb, Richard W.**
*Nanovic, Roger N.***

* Resigned 12-31-04
 ** Appointed president judge
 effective 1-1-05

CENTRE COUNTY (49)

Complement 3

Brown, Charles C., Jr.
 Grine, David E.
 Kistler, Thomas King

CHESTER COUNTY (15)

Complement 13

*Riley, Howard F., Jr.***
Ott, Paula Francisco+

Cody, Jacqueline C.
 Gavin, Thomas G.
 Griffith, Edward

 Hall, John L.
 MacElree, James P., II
 Mahon, William P.
 Nagle, Ronald C.++
 Platt, Katherine B.L.

Sánchez, Juan R.*
 Sarcione, Anthony A.
 Shenkin, Robert J.
 Streitl, Phyllis R.

* Appointed to U. S. District
 Court; resigned 7-9-04
 ** President judge term expired
 1-1-05
 + Elected president judge
 effective 1-12-05
 ++ Appointed 2-9-05

CLARION COUNTY (18)

Complement 1

Arner, James G.

CLEARFIELD COUNTY (46)

Complement 2

Ammerman, Frederic J.
 Cherry, Paul E.

CLINTON COUNTY (25)

Complement 2

Saxton, Richard N., Jr.
 Williamson, J. Michael

**COLUMBIA-MONTOUR
 COUNTIES (26)**

Complement 2

Naus, Scott W.
 James, Thomas A., Jr.

CRAWFORD COUNTY (30)

Complement 3

Miller, Gordon R.
Spataro, John F.
Vardaro, Anthony J.

CUMBERLAND COUNTY (09)

Complement 5

Hoffer, George E.
Bayley, Edgar B.
Guido, Edward E.
Hess, Kevin A.
Oler, J. Wesley, Jr.

DAUPHIN COUNTY (12)

Complement 8

*Kleinfelter, Joseph H.**
*Lewis, Richard A.***
Bratton, Bruce F.
Cherry, John F.
Clark, Lawrence F., Jr.
Evans, Scott A.
Hoover, Todd A.
Turgeon, Jeannine

* President judge term expired
2-15-05

** Elected president judge
effective 2-16-05

DELAWARE COUNTY (32)

Complement 19

Clouse, Kenneth A.
Bradley, Harry J.
Burr, Charles B., II
Coll, Michael F. X.
Cronin, Joseph P., Jr.
Dozor, Barry C.
Durham, Kathrynann W.
Fitzpatrick, Maureen F.
Hazel, Frank T.
Jenkins, Patricia H.

Keeler, Charles C.
Kelly, Kevin F.
Kenney, Chad F., Sr.
Koudelis, George
Osborne, Ann A.

Pagano, George A.
Proud, James F.
Wright, Robert C.
Zetusky, Edward J., Jr.

**ELK-CAMERON
COUNTIES (59)**

Complement 1

Masson, Richard A.

ERIE COUNTY (06)

Complement 9

*Cunningham, William R.**
*Kelly, Elizabeth K.***
Anthony, Fred P.
Bozza, John A.
Connelly, Shad F.
DiSantis, Ernest J., Jr.
Domitrovich, Stephanie A.
Dunlavey, Michael E.
Trucilla, John J.

* President judge term expired
1-3-05

** Elected president judge
effective 1-4-05

FAYETTE COUNTY (14)

Complement 5

Capuzzi, Conrad B.
Leskinen, Steve P.
Solomon, Gerald R.
Wagner, John F., Jr.
Warman, Ralph C.

**FRANKLIN-FULTON
COUNTIES (39)**

Complement 4

Walker, John R.
Herman, Douglas W.
Van Horn, Carol L.
Walsh, Richard J.

GREENE COUNTY (13)

Complement 2

Grimes, H. Terry
Nalitz, William R.

HUNTINGDON COUNTY (20)

Complement 1

Kurtz, Stewart L.

INDIANA COUNTY (40)

Complement 3

Martin, William J.
Hanna, Carol
Olson, Gregory A.

JEFFERSON COUNTY (54)

Complement 1

Foradora, John H.

**LACKAWANNA
COUNTY (45)**

Complement 7

Harhut, Chester T.
Barrasse, Michael J.
Corbett, Patricia
Geroulo, Vito P.
Mazzoni, Robert A.
Minora, Carmen D.
Nealon, Terrence R.

LANCASTER COUNTY (02)

Complement 13
Vacancy 1

*Georgelis, Michael A.***
Farina, Louis J.+
Allison, Paul K.
Ashworth, David L.
Cullen, James P.

Gorbey, Leslie
Hoberg, Jay J.
Hummer, Wayne G., Jr.
Kenderdine, Henry S., Jr.
Madenspacher, Joseph C.

Perezous, Michael J.
Stengel, Lawrence F.*
Workman, Daniel R.

- * Appointed to U. S. District Court; resigned 6-27-04
- ** President judge term expired 1-2-05
- + Elected president judge effective 1-3-05

LAWRENCE COUNTY (53)

Complement 4
Vacancy 1

*Pratt, Ralph D.**
*Motto, Dominick***
Cox, J. Craig
Piccione, Thomas M.

- * Resigned 6-29-04
- ** Appointed president judge effective 6-30-04

LEBANON COUNTY (52)

Complement 4

Eby, Robert J.
Charles, Bradford H.
Kline, Samuel A.
Tylwalk, John C.

LEHIGH COUNTY (31)

Complement 10

Platt, William H.
Banach, Kelly L.
Black, Alan M.
Brenner, Lawrence J.
Ford, William E.

Johnson, J. Brian
McGinley, Carol K.
Reibman, Edward D.
Steinberg, Robert L.
Wallitsch, Thomas A.

LUZERNE COUNTY (11)

Complement 9

Conahan, Michael T.
Augello, Joseph M.
Burke, Thomas F., Jr.
Ciavarella, Mark A., Jr.
Lokuta, Ann H.

Mundy, Hugh F.
Muroski, Chester B.
Olszewski, Peter Paul, Jr.
Toole, Patrick J., Jr.

LYCOMING COUNTY (29)

Complement 5

Brown, Kenneth D.
Anderson, Dudley N.
Butts, Nancy L.
Gray, Richard A.
Kieser, William S.

MCKEAN COUNTY (48)

Complement 2

Cleland, John M.
Yoder, John H.

MERCER COUNTY (35)

Complement 4

Fornelli, Francis J.
Dobson, Thomas R.
Reed, John C.
St. John, Christopher J.

MIFFLIN COUNTY (58)

Complement 1

Searer, Timothy S.

MONROE COUNTY (43)

Complement 6

Vican, Ronald E.
Cheslock, Jerome P.
Miller, Linda Wallach
O'Brien, Peter J.
Pazuhanich, Mark P.*

Worthington,
Margherita Patti
Zulick, Arthur L.**

- * Resigned 7-12-04
- ** Appointed 6-15-05

MONTGOMERY COUNTY (38)

Complement 21

Corso, S. Gerald
Albright, Kent H.
Barrett, R. Stephen
Bertin, Emanuel A.
Branca, Thomas C.

Carpenter, William R.
Daniele, Rhonda Lee
DelRicci, Thomas M.
Dickman, Toby L.
Drayer, Calvin S., Jr.

Furber, William J., Jr.
Hodgson, Richard J.
Moore, Bernard A.

MONTGOMERY COUNTY, continued

Nicholas, William T.
O'Neill, Steven T.

Ott, Stanley R.
Rogers, Thomas P.
Rossanese, Maurino J., Jr.
Smyth, Joseph A., Jr.
Tilson, Arthur R.
Tressler, Paul W.

NORTHAMPTON COUNTY (03)

Complement 7

Freedberg, Robert A.
Baratta, Stephen G.
Giordano, Emil A.
McFadden, F. P. Kimberly
Moran, William F.

Smith, Edward G.
Zito, Leonard N.*

* Appointed 7-1-04

NORTHUMBERLAND COUNTY (08)

Complement 3

Sacavage, Robert B.
Saylor, Charles H.
Wiest, William Harvey

PERRY-JUNIATA COUNTIES (41)

Complement 2

Rehkamp, C. Joseph
Morrow, Kathy A.*

* Appointed 6-29-04

PHILADELPHIA COUNTY (01)

Complement 93
Vacancy 1

Massiah-Jackson,
Frederica A.

Administrative Judges

Field, Myrna P.
Fitzgerald, James J., III
O'Keefe, Joseph D.

Abramson, Howland W.
Ackerman, Norman
Allen, Jacqueline F.
Bernstein, Mark I.
Berry, Willis W., Jr.

Bright, Gwendolyn N.
Brinkley, Genece E.
Bronson, Blenn B.#
Brown, Joan A.
Byrd, Sandy L.V.

Carrafiello, Matthew D.
Chen, Ida K.
Clark, Tama Myers
Cohen, Denis P.
Cohen, Gene D.##

Colins, Mary D.+
Cooperman, Amanda
Cunningham,
Charles J., III#

DeFino-Nastasi, Rose Marie
Dembe, Pamela Pryor

Dempsey, Thomas E.
Di Vito, Gary F.
DiBona, Alfred J., Jr.++
DiNubile, Victor J., Jr.
Djerassi, Ramy I.

Dougherty, Kevin M.
Dumas, Lori A.
Dych, Joseph A.
Fleisher, Leslie
Ford, Holly J.

Fox, Idee C.
Frazier-Clemons, Brenda
Geroff, Steven R.
Glazer, Gary S.
Gordon, Richard J., Jr.

Greenspan, Jane Cutler
Herron, John W.
Hill, Glynnis D.
Hughes, Renee Cardwell
Jackson, Elizabeth

Johnson, Joel S.
Jones, C. Darnell, II
Joseph, Barbara A.
Kane, Harold M.
Kean, Joyce S.

Keogh, D. Webster
Lachman, Marlene
Lazarus, Anne E.
Lerner, Benjamin
Lewis, Kathryn Streeter

Lynn, James Murray
Maier, Eugene Edward J.
Manfredi, William J.
Matthews, Robert J.
Mazzola, William J.

McInerney, Patricia A.
Means, Rayford A.
Minehart, Jeffrey B.
Moss, Sandra Mazur
Murphy, Margaret Theresa

New, Arnold L.
Olszewski, Walter J.*
Overton, George W.
Panepinto, Paul P.
Papalini, Joseph I.

Patrick-Johnakin, Paula A.
Pechkurow, Doris A.
Quiñones Alejandro, Nitza I.
Ransom, Lillian Harris
Rau, Lisa M.

Rebstock, Robert J.
Rizzo, Annette M.
Robins New, Shelley

PHILADELPHIA COUNTY,
continued

Robinson, Roslyn K.
Rogers, Peter F.

Sarmina, M. Teresa
Schulman, Susan I.#
Sheppard, Albert W., Jr.
Shreeves-Johns, Karen
Smith, Gregory E.

Snite, Albert John, Jr.
Summers, Edward R.
Sylvester, Esther R.
Temin, Carolyn Engel**
Tereshko, Allan L.

Trent, Earl W., Jr.
Tucker, Leon W.▲
Wogan, Chris R.
Wolf, Flora Barth
Woods-Skipper, Sheila A.

Wright Padilla, Nina N.
Younge, John Milton

* Appointed 6-29-04
** Resigned 8-31-04
+ Resigned 11-10-04
++ Retired 12-31-04
Appointed 2-9-05
Resigned 2-28-05
▲ Appointed 6-30-05

PIKE COUNTY (60)
Complement 1

Kameen, Joseph F.

POTTER COUNTY (55)
Complement 1

Leete, John B.

SCHUYLKILL COUNTY (21)
Complement 6

Baldwin, William E.
Dolbin, Cyrus Palmer

Domalakes, John E.
Miller, Charles M.
Russell, Jacqueline L.

Stine, D. Michael

SNYDER-UNION
COUNTIES (17)
Complement 2

Woelfel, Harold F., Jr.
Knight, Louise O.

SOMERSET COUNTY (16)
Complement 3

Fike, Eugene E., II
Cascio, John M.
*Upor, Sandra W.**

* Appointed 5-10-05

SUSQUEHANNA
COUNTY (34)
Complement 1

Seamans, Kenneth W.

TIOGA COUNTY (04)
Complement 1

Dalton, Robert E., Jr.

VENANGO COUNTY (28)
Complement 2

White, H. William, Jr.
Lobaugh, Oliver J.

WARREN-FOREST
COUNTIES (37)
Complement 2

Millin, Paul H.
Morgan, William F.

WASHINGTON COUNTY (27)
Complement 5

*Gilmore, David L.**
*O'Dell Seneca, Debbie***
Emery, Katherine B.
Mascara, Mark E.
Moschetta, Joseph P.+
Pozonsky, Paul M.

* Died 9-30-04
** Appointed president judge
effective 10-1-04
+ Appointed 6-28-05

WAYNE COUNTY (22)
Complement 1

Conway, Robert J.

WESTMORELAND
COUNTY (10)
Complement 11

Ackerman, Daniel J.
Bell, Alfred B.
Blahovec, John E.
Caruso, Gary P.
Driscoll, John J.

Feliciani, Christopher A.
Hathaway, Rita Donovan
Marsili, Anthony G.
McCormick, Richard E., Jr.
Ober, William J.

Pezze, Debra A.

WYOMING-SULLIVAN
COUNTIES (44)
Complement 1

Vanston, Brendan J.

YORK COUNTY (19)

Complement 12

Chronister, John H.

Blackwell, Penny L.

Bortner, Michael E.

Brillhart, Michael J.

Dorney, Sheryl Ann

Kelley, Thomas H.

Kennedy, John S.

Linebaugh, Stephen P.

Renn, Richard K.

Snyder, Gregory M.

Thompson, John W., Jr.

Uhler, John C.

**Common
Pleas
Court
Senior
Judges**

ADAMS COUNTY

Spicer, Oscar F.

ALLEGHENY COUNTY

Bigley, Gerard M.**
Farino, S. Louis
Johnson, Livingstone M.
Kaplan, Lawrence W.
McGowan, Bernard J.*

McGregor, James R.*
McLean, James H.
Novak, Raymond A.
Zelevnik, Richard G.*

* Retired 12-31-04
** Effective 1-3-05

BEAVER COUNTY

Mannix, Thomas C.
Reed, Robert C.
Rowley, James E.*
Steege, Peter O.

* Died 7-20-04

BERKS COUNTY

Ehrlich, Elizabeth G.
Schaeffer, Forrest G., Jr.
Smith, Calvin E.
Stallone Albert A.

BUCKS COUNTY

Biester, Edward G., Jr.
Clark, Ward F.
Garb, Isaac S.*
McAndrews, R. Barry

* Retired 12-31-04

BUTLER COUNTY

Brydon, John H.
O'Brien, Martin J.

CAMBRIA COUNTY

Swope, Thomas A., Jr.*

* Effective 1-1-05

CARBON COUNTY

Lavelle, John P.
Webb, Richard W.*

* Effective 1-1-05

CHESTER COUNTY

Wood, Lawrence E.

CLARION COUNTY

Alexander, Charles R.

CLEARFIELD COUNTY

Reilly, John K., Jr.

CLINTON COUNTY

Brown, Carson V.

**COLUMBIA-MONTOUR
COUNTIES**

Keller, Gailey C.*

* Died 9-28-04

(As of 6-30-05)

DAUPHIN COUNTY

Morrison, Clarence C.

DELAWARE COUNTY

Toal, William R., Jr.

ERIE COUNTY

Fischer, Roger M.*

* Died 10-10-04

FAYETTE COUNTY

Franks, William J.

**FRANKLIN-FULTON
COUNTIES**

Keller, John W.

INDIANA COUNTY

Ruddock, W. Parker

JEFFERSON COUNTY

Henry, William L.
Snyder, Edwin L.

LACKAWANNA COUNTY

Cottone, S. John
O'Malley, Carlon M., Jr.
Walsh, James J.

LAWRENCE COUNTY

Pratt, Ralph D.

LEHIGH COUNTY

Diefenderfer, James N.

LUZERNE COUNTY

Cappellini, Gifford S.
Toole, Patrick J., Jr.

LYCOMING COUNTY

Smith, Clinton W.

MERCER COUNTY

Wherry, Michael J.

MONTGOMERY COUNTY

Brown, Lawrence A.
Subers, Albert R.*
Vogel, William W.

* Retired 12-31-04

NORTHAMPTON COUNTY

Franciosa, Michael V.
Hogan, James C.

**NORTHUMBERLAND
COUNTY**

Feudale, Barry F.*
Ranck, Samuel C.

* Sits on occasion in
Commonwealth Court

PERRY-JUNIATA COUNTIES

Quigley, Keith B.*

* Sits on occasion in
Commonwealth Court

PHILADELPHIA COUNTY

Bonavitacola, Alex
Bruno, Joseph C.#
Chiovero, John J.
DeFino, Anthony J., Jr.
DiBona, Alfred J., Jr.##

Goodheart, Bernard J.
Ivanoski, Leonard A.
Jackson, Ricardo C.
Jelin, Sheldon C.
Kafrissen, Arthur S.

Levin, Stephen E.
Lineberger, James A.
O'Brien, Frank X.++
O'Grady, John J., Jr.
Poserina, John J., Jr.

Reynolds, Abram Frank*
Richette, Lisa A.
Russell, Edward E.
Savitt, David N.
Temin, Carolyn Engel+

Watkins, Thomas D.**

* Effective 2-17-04
** Effective 8-6-04
+ Effective 9-1-04
++ Died 9-10-04
Retired 12-31-04
Effective 1-1-05

PIKE COUNTY

Thomson, Harold A., Jr.

TIOGA COUNTY

Kemp, Robert M.*

* Retired 12-31-04

**WARREN-FOREST
COUNTIES**

Wolfe, Robert L.

WASHINGTON COUNTY

Bell, John F.

Gladden, Thomas D.

Terputac, Thomas J.

WESTMORELAND COUNTY

Loughran, Charles H.

Marker, Charles E.

Mihalich, Gilfert M.

YORK COUNTY

Cassimatis, Emanuel A.

Erb, Joseph E.

Horn, Richard H.

Miller, John T.

Philadelphia Municipal Court Judges

Complement 25

Presenza, Louis J.
Anderson, Linda F.
Blasi, Robert S.
Brady, Frank T.
Conway, Gwendolyn A.

Daher, Georganne V.
DeLeon, James M.
Deni, Teresa Carr
Gehret, Thomas F.
Gilbert, Barbara S.

Griffin, Deborah Shelton
Jiminez, Nazario, Sr.**
Kirkland, Lydia Y.
Kosinski, Gerard A.
Meehan, William Austin, Jr.

Merriweather, Ronald B.
Moore, Jimmie
Moss, Bradley K.*
Neifield, Marsha H.
Palumbo, Frank

Pew, Wendy L.
Robbins, Harvey W.
Silberstein, Alan K.
Stack, Felice Rowley
Washington, Craig M.

* Appointed 3-16-04

** Appointed 6-29-04

Philadelphia Traffic Court Judges

Complement 7

*Kelly, Francis E.***
Tynes, Thomasine+

Administrative Judge
DeAngelis, Bernice A.*

Adams, Willie J.
Greene Clark, Earlene
Perri, Fortunato N., Sr.
Howlett, Joseph A.

* Appointed Administrative Judge
effective 2-22-05

** Resigned 3-6-05

+ Appointed president judge
effective 3-10-05

Pittsburgh Magistrates Court

Complement 2*

Coles, Louis**
Harrington, Moira**

* Per Supreme Court amended
order No. 192, Magisterial
Docket No. 1 dated 4-8-03,
appointments to Pittsburgh
Magistrates Court are sus-
pended after 12-31-02 until
further notice. Current magis-
trates will continue to serve until
their terms expire. This is in
response to the petition made by
the president judge of Allegheny
County that the court be
evaluated over a two-year
period to determine the
feasibility of phasing it out.

** Term expired 12-31-04

Philadelphia and Pittsburgh Special Courts Judges

(As of 6-30-05)

Philadelphia

Special

Courts

Senior

Judges

**Municipal Court
Senior Judges**

Bashoff, Martin W.*
Cosgrove, Francis P.
King, William A., Jr.
Krase, Morton
Lilian, Eric L.

Mekel, Edward G.

* Retired 12-31-04

**Traffic Court
Senior Judges**

Cuffeld, Charles H.**
Podgorski, Lillian H.*

* Retired 12-31-04

** Removed from list 6-3-05

(As of 6-30-05)

ADAMS COUNTY (51)

Complement 4

Beauchat, Mark D.
Bowman, Daniel S.
Carr, Thomas R.
Zepp, John C., III

ALLEGHENY COUNTY (05)

Complement 52
Vacancy 1

Barner, Robert L.
Barton, David J.
Bengel, Carolyn S.
Blaschak, Suzanne R.
Bova, John N.

Boyle, Mary Grace
Brletic, Thomas S.
Bubash, Cathleen Cawood
Cercone, Mary Ann
Cioppa, Ross C.

Conroy, Eileen M.
Cooper, Kevin E.
Costa, Ronald N., Sr.
Diven, Daniel R.**
Dzvonick, Robert P.

Edkins, Sally Ann
Evashavik, Susan F.
Firestone, Nathan N.
Ford, Robert L.+
Hanley, James J., Jr.

Hromyak, Leonard J.
Joyce, Dennis R.
King, Richard G.
Lang, Elissa M.
Larotonda, Blaise P.

Luniewski, Walter W., Jr.
Marraccini, Ernest L.
Martin, Armand
McCarthy, Richard K.
McGraw, Elaine M.

McLaughlin, Charles A., Jr.
Miller, Thomas G., Jr.
Murray, Mary P.

Olasz, Richard D., Jr.
Opiela, Richard G.

Petite, Oscar J., Jr.
Presutti, Donald H.
Ravenstahl, Robert P., Jr.
Russo, James E.*
Saveikis, Anthony W.

Scharding, Anna Marie
Schricker, Scott H.
Sosovicka, David J.
Swearingen, Carla M.
Thompson, Alberta V.

Torkowsky, Thomas R.
Wagner, William K.
Welsh, Regis C., Jr.
Wyda, Robert C.
Zielmanski, Eugene L.

Zoller, Richard H.
Zucco, Linda I.
Zyra, Gary M.

* Died 4-24-04
** Died 10-15-04
+ Appointed 6-20-05

ARMSTRONG COUNTY (33)

Complement 4
Vacancy 1

DeComo, J. Gary
Gerheim, Michael L.
Goldstrohm, Samuel R.
Young, Jay A.*

* Died 6-17-04

BEAVER COUNTY (36)

Complement 9
Vacancy 1

Armour, John W.
Dibenedetto, James F.
Eiler, Donald L.*
Howe, Edward C.
Knafelc, Harry E.

District

Justices

(As of 6-30-05)

(Judicial Districts in parentheses)

BEAVER COUNTY,
continued

Loughner, C. Douglas
Schafer, Joseph L.+
Schulte, Martin V.
Swihart, Janet M.
Zupsic, Joseph**

* Resigned 1-31-05
** Resigned 3-5-05
+ Appointed 6-27-05

BEDFORD COUNTY (57)

Complement 4
Vacancy 1

Baker, Brian K.
Bingham, H. Cyril, Jr.
Calhoun, Kathy S.
McVicker, Erika*

* Resigned 6-30-05

BERKS COUNTY (23)

Complement 18

Bentz, Nicholas M., Jr.
Dougherty, Timothy M.
Gauby, Thomas M., Sr.
Greth, Gail M.
Hall, William N., Jr.
Hartman, Michael G.
Kennedy Stuart D.
Kowalski, Phyllis J.
Lachina, Deborah P.
Leonardziak, Michael J.
Mest, Ronald C.
Patton, Dean R.
Scott, Wallace S.
Stitzel, Gloria W.
Stoudt, Carol A.
Walley, Susanne R.
Xavios, Thomas H.
Young, Ann L.

BLAIR COUNTY (24)

Complement 7

Aigner, Paula M.
Garman, Kenneth L.
Jones, Patrick T.
Kelly, Todd F.
Miller, Fred B.
Moran, Joseph L.
Ormsby, Craig E.

BRADFORD COUNTY (42)

Complement 4

Clark, Timothy M.
Shaw, Michael G.
Wheaton, Fred M.
Wilcox, Jonathan M.

BUCKS COUNTY (07)

Complement 18

Brown, Leonard J.
Burns, Michael J.
Daly, Philip J.
Dietrich, Ruth C.
DuBree, M. Kay
Falcone, Joseph P.
Finello, Daniel J., Jr.
Gaffney, Robert E.
Hogeland, H. Warren
Kelly, John J., Jr.
Kline, Joanne V.
McEwen, Susan E.
Nasshorn, Donald
Peranteau, Frank W., Sr.
Roth, C. Robert
Schnell, Robert A., Jr.
Vislosky, Jan
Wagner, Robert L., Jr.

BUTLER COUNTY (50)

Complement 7

Haggerty, Sue E.
O'Donnell, Joseph D., Jr.
O'Donnell, Kevin P.
Seibel, Wayne D.
Shaffer, Peter H.
Streib, Kelly T.D.
Woessner, Clifford J.

CAMBRIA COUNTY (47)

Complement 10
Vacancy 1

Barron, John W.
Berkhimer, Allan C.*
Creany, Frederick S.
Decort, Galen F.
Grecek, Leonard J.

Musulini, Michael J.
Nileski, Charity L.
Pavlovich, Max F.
Zanghi, Mary Ann
Zungali, Michael

* Removed from office by the
Court of Judicial Discipline
6-28-05

CARBON COUNTY (56)

Complement 4

Appleton, Bruce F.
Homanko, Joseph D., Sr.
Kosciolek, Casimir T.
Lewis, Edward M.

CENTRE COUNTY (49)

Complement 6

Grine, Jonathan D.
Hoffman, Daniel R., II
Jordan, Thomas N.

**CENTRE COUNTY,
continued**

Lunsford, Bradley P.
Prestia, Carmine W., Jr.

Sinclair, Allen W.

CHESTER COUNTY (15)
Complement 19

Anthony, John F.
Arnold, Rita A.
Blackburn, Jeremy
Bruno, Mark A.
Cabry, Michael J., III

Charley, James J., Jr.
Darlington, Chester F.
Davis, Robert L.
DeAngelo, James V.
Farmer, Harry W., Jr.

Gill, Robert E.
Knapp, Gwenn S.
Koon, Grover E.
Maisano, Daniel J.
Martin, Thomas E., Jr.

Michaels, Theodore P., Jr.
Scott, Stanley
Smith, Larry E.
Winther, J. Peter

CLARION COUNTY (18)
Complement 4
Vacancy 1

George, Daniel P.
Kadunce, Nancy M.
Lapinto, Anthony A.*
Long, Amy L.

* Died 10-7-04

CLEARFIELD COUNTY (46)
Complement 4

Ford, Patrick N.
Hawkins, James L.

Ireland, Richard A.
Rudella, Michael A.

CLINTON COUNTY (25)
Complement 3

Maggs, John W.
Mills, Frank P., Sr.*
Sanders, Joseph L., III

* Appointed 3-29-04

**COLUMBIA-MONTOUR
COUNTIES (26)**
Complement 5

Cashman, Richard P.
Coombe, Donna J.
Long, Craig W.
Shrawder, Marvin K.
Stackhouse, Ola E.

**CRAWFORD
COUNTY (30)**
Complement 6

Chisholm, William D.
Herzberger, George W., III
Marwood, Rita J.
Nicols, Amy L.
Rossi, A. Michael, Jr.
Zilhaver, Lincoln S.

**CUMBERLAND
COUNTY (09)**
Complement 8

Bender, Harold E.
Clement, Charles A., Jr.
Correal, Paula P.
Day, Susan K.
Elder, Gayle A.

Manlove, Robert V.
Placey, Thomas A.
Shulenberg, Helen B.

DAUPHIN COUNTY (12)
Complement 16

Bridges, Roy C.
Jennings, Robert, III
Johnson, Gregory D.
Judy, David H.
Lindsey, Joseph S.

Margerum, Rebecca Jo
Pelino, Dominic A.
Pianka, James
Postelle, Lavon A.
Semic, Steven M.

Shugars, Raymond F.
Smith, Michael John**
Solomon, Joseph S.
Stewart, Marsha C.
Wenner, William C.

Yanich, Bernard B.*
Zozos, George A.

* Retired 12-31-04
** Appointed 6-27-05

**DELAWARE
COUNTY (32)**
Complement 35
Vacancy 1

Berardocco, Ann
Burke, Robert R.
Cappelli, Richard M.
Cullen, Michael G.
Davis, Horace Z.

Day, William L., Jr.
Foster, Beverly H.
Gallagher, Vincent D., Jr.
Gannon, Edward J., Jr.
Gaspari, Rocco

**DELAWARE COUNTY,
continued**

Karapalides, Harry J.
Klein, Stephanie H.
Lacey, Thomas J.
Lacianca, Elisa C.
Lang, David Hamilton

Liberace, Gerald C.*
Lippart, Jack D.
Lippincott, Nicholas S.
Mallon, Gregory M.
Mattox, Christopher R.

McCray, C. Walter, III
McKeon, Laurence J.
Micozzie, Kelly A.
Miller, Kenneth N.
Murphy, David J.

Nilon, James F., Jr.
Perfetti, John J.
Puppio, Andrea E.
Sandone, Steven A.
Scanlon, Anthony D.

Seaton, Spencer B., Jr.
Tolliver, Elkin A.
Tozer, Peter P.
Truscello, Deborah M.
Videon, David T.

* Resigned 4-3-05

**ELK-CAMERON
COUNTIES (59)**

Complement 3

Brown, Alvin H.
King, George A.
Wilhelm, Donald A.

ERIE COUNTY (06)

Complement 15

Abate, Frank, Jr.
DiPaolo, Dominick D.
Dwyer, James J., III

Krahe, Mark R.
Lefaiver, Joseph R.

Mack, Suzanne C.
MacKendrick,
Christopher K.
Manzi, Paul
Nichols, Patsy A.
Robie, Thomas C.

Southwick, Carol L.
Strohmeier, Susan D.
Stuck-Lewis, Denise M.
Urbaniak, Paul G.
Vendetti, John A.

FAYETTE COUNTY (14)

Complement 13
Vacancy 1

Abraham, Randy S.
Blair, Mark L.
Breakiron, Robert W.
Cavalcante, Brenda K.
Cramer, Jesse J.

Defino, Michael J.
Dennis, Wendy D.
Haggerty, Ronald J., Sr.
Kula, Deberah L.
Mitchell, Herbert G., Jr.

Rubish, Michael
Shaner, Dwight K.
Vernon, Rick C.*

* Resigned 2-21-05

**FRANKLIN-FULTON
COUNTIES (39)**

Complement 10
Vacancy 1

Alloway, Richard L., II
Carter, Gary L.
Hawbaker, David E.
Johnson, Carol J.
Knepper, Brenda M.

Mellott, Wendy Richards
Meminger, Larry K.*
Pentz, Larry G.
Rock, Kelly L.
Shatzer, Shirley M.

* Died 3-30-05

GREENE COUNTY (13)

Complement 3

Canan, Neil M.
Dayich, Louis M.
Watson, Leroy W.

**HUNTINGDON
COUNTY (20)**

Complement 4

Colyer, Michael M.
Davis, Daniel S.
Jamison, Mary G.
Wilt, Richard S.

INDIANA COUNTY (40)

Complement 4

Orendorff, Richard G.
Rega, Jennifer J.
Steffee, Susanne V.
Thachik, George M.

JEFFERSON COUNTY (54)

Complement 3

Beck, Richard D.
Chambers, Douglas R.
Inzana, David B.

LACKAWANNA COUNTY
(45)

Complement 11

Clark, George E., Jr.
Farrell, Alyce M.
Gallagher, Terrence V.
Giglio, Theodore J.
Golden, Thomas J.

Kennedy, James P.
McGraw, Sean P.
Mercuri, John J.
Pesota, John P.
Russell, Robert G.

Toczydlowski, Joseph S., Jr.

LANCASTER COUNTY (02)

Complement 20
Vacancy 1

Brian, David E.
Duncan, Jayne F.
Eckert, Leo H., Jr.
Garrett, Daniel B.
Hamill, Nancy G.

Hamilton, Maynard A., Jr.
Hartman, Cheryl N.
Hartman, Rodney H.
Herman, Robert A., Jr.
Miller, David P.

Musser, Richard W.*
Mylin, Stuart J.
Reuter, William G.
Roth, Bruce A.
Savage, Ronald W.

Simms, Richard H.
Sponaugle, Mary Mongiovi
Stoltzfus, Isaac H.
Willwerth, Jene A.
Winters, John C.

* Resigned 5-1-05

LAWRENCE COUNTY (53)

Complement 5

Amodie, Melissa A.
Battaglia, Samuel A.
Lamb, J. V.
Reed, James A.
Rishel, David B.

LEBANON COUNTY (52)

Complement 6

Arnold, John F.
Capello, Thomas M.
Foundling, Nigel K.
Heck, Christine R.
Lehman, Lee R.

Smith, Michael D.

LEHIGH COUNTY (31)

Complement 14

Balliet, Carl L.
Butler, Donna R.
Crawford, Charles H.
Devine, Karen C.
Engler, Patricia M.

Harding, David B.
Hartman, Edward E.
Leh, David G.
Merlo, Maryesther S.
Murphy, Thomas P.

Rapp, Anthony G., Jr.
Snyder, Joan L.
Varricchio, Michele A.
Warmkessel, Patricia E.

LUZERNE COUNTY (11)

Complement 17

Amesbury, William Henry
Barilla, Andrew, Jr.
Carmody, Joseph J.

Dotzel, Michael G.
Feissner, Gerald L.

Halesey, Joseph A.
Hasay, John E.
Hopkins, John J.*
Kane, Martin R.
Malast, Diana

O'Donnell, Daniel
Pierantoni, Fred A., III
Roberts, Paul J.
Sharkey, Thomas J.
Swank, Ronald W.

Tupper, James E.
Whittaker, Donald L.
Zola, Joseph D.

* Died 1-9-04; court eliminated
4-13-04

LYCOMING COUNTY (29)

Complement 6

Carn, James G.
Lepley, Jerry C.
McRae, C. Roger
Page, Allen P., III
Schriner, Kenneth T., Jr.

Sortman, James H.

MCKEAN COUNTY (48)

Complement 4

Boser, Barbara L.
Hauser, Christopher G.
Kennedy, Michael J.
Miller, James P.*

* Appointed 6-16-04

MERCER COUNTY (35)

Complement 5

Fagley, William L.
 French, Ruth M.*
 Hinch, Lorinda L.**
 McMahon, James E.
 Russo, Henry J.
 Silvis, Lawrence T.

* Resigned 3-31-05
 ** Appointed 6-20-05

MIFFLIN COUNTY (58)

Complement 3

Clare, Barbara A.
 Hunter, Tammy L.
 Williams, Rick A.

MONROE COUNTY (43)

Complement 10
 Vacancy 1

Claypool, Richard S.
 Dennis, C. William
 Eyer, Charles P.*
 Krawitz, JoLana
 Mangan, Anthony J.

Olsen, Thomas E.
 Perfetti, Robert J.
 Shiffer, Thomas R., Jr.
 Whitesell, John D.
 York, Debby A.

* Resigned 6-11-04

MONTGOMERY COUNTY (38)

Complement 30
 Vacancy 1

Augustine, Albert J.
 Bernhardt, Francis J., III
 Borek, Harold D.
 Casillo, Ester J.
 Crahalla, Benjamin R.

Deatelhauser, Kenneth E.
 Dougherty, Joseph H.
 Durkin, John J.
 Gadzicki, Walter F., Jr.
 Householder,
 William R., Jr.
 Hummel Fried, Catherine M.
 Keightly, David A.
 Kowal, John L.
 Lawrence, Francis J., Jr.
 Leader, Loretta A.

Leo, Paul N.
 Lukens, Deborah A.
 Maruszczak, William I.
 McHugh, Elizabeth A.**
 McHugh, Michael F.*

Murray, John S., III
 Nesbitt, Harry J., III
 Palladino, Thomas A.
 Price, Juanita A.
 Saraceni, Robert A.

Schireson, Henry J.
 Silverman, Stephen H.+
 Skerchock, Dorothy
 Valentine, Katleen M.
 Zaffarano, Patricia A.
 Zucker, Karen Eisner

* Died 2-28-04
 ** Appointed 7-16-04
 + Died 12-22-04

NORTHAMPTON COUNTY (03)

Complement 15
 Vacancy 2

Barner, Joseph K.
 Elwell, Gay L.
 Frey, Elmo L., Jr.+
 Koury, Michael J., Jr.
 Litzenberger, Ralph W.

Marinkovits, Joan
 Masut, Adrienne L.
 Matos Gonzalez, Nancy

Narlesky, James J.++
 Repyneck, Diane S.

Romig, Elizabeth A.**
 Schlegel, Barbara A.*
 Stocklas, James F.
 Strohe, Todd M.
 Zaun, William F.

Zemgulis, Sandra J.

* Resigned 11-4-04
 ** Resigned 3-4-05
 + Resigned 6-1-05
 ++ Appointed 6-6-05

NORTHUMBERLAND COUNTY (08)

Complement 5

Bolton, Robert J.
 Brown, Wade J.
 Gembic, John
 Kear, William F.
 Mychak, Michael F.

PERRY-JUNIATA COUNTIES (41)

Complement 5

Frownfelter, Elizabeth R.
 Howell, Donald F.
 Leister, Jacqueline T.
 Lyter, Barbara M.
 McGuire,

Daniel Ralph Lunn**

Moyer, James R., Jr.*

* Resigned 4-30-04
 ** Appointed 6-20-05

PIKE COUNTY (60)

Complement 4

Cooper, Alan B.
 Lieberman, Charles F.
 McBride, Stephen A.
 Sanquilly, William N.

POTTER COUNTY (55)

Complement 4

Bristol, Delores G.
Burton, Lisa M.
Easton, Annette L.
Easton, Barbara J.

SCHUYLKILL COUNTY (21)

Complement 8

Ferrier, James R.
Moran, Charles V.
Nahas, Bernadette J.
Pankake, Carol A.
Plachko, David A.

Reiley, James K.
Slezosky, William A.
Zelonis, Andrew B.

**SNYDER-UNION
COUNTIES (17)**

Complement 4

Armbruster, Leo S.
Mensch, Jeffrey L.
Robinson, John T.
Savidge, Willis E.

SOMERSET COUNTY (16)

Complement 5

Bell, Douglas McCall
Cannoni, Joseph A.
Cook, Arthur K.
Roush, William H.
Stevanus, Sandra L.

**SUSQUEHANNA
COUNTY (34)**

Complement 3

Dayton, Watson J.
Franklin, Gene A.
Janicelli, Peter M.

TIOGA COUNTY (04)

Complement 3

Carlson, James E.
Edgcomb, Brian W.
Sweet, Phillip L.

VENANGO COUNTY (28)

Complement 4

Boyer, Robert L.
Fish, David L.
Gerwick, Douglas B.
Martin, William G.

**WARREN-FOREST
COUNTIES (37)**

Complement 6

Bauer, Laura S.
Carbaugh, Curtis E.
Carlson, Glenn S.
Fedora, Michael L.
Lindemuth, Cynthia K.

Zerbe, Arthur W.

WASHINGTON COUNTY (27)

Complement 11

Vacancy 1

Amati, Ronald*
Costanzo, Valarie S.
Dutton, Jay H.
Ellis, James C.
Havelka, Gary H.

Hopkins, Larry W.
Mark, David W.
Pelkey, William P.
Spence, J. Albert
Thompson, Curtis L.

Weller, Jay H.

* Resigned 2-2-04

WAYNE COUNTY (22)

Complement 4

Carney, Bonnie L.
Edwards, Ronald J.
Farrell, Jane E.
Lewis, Bonnie P.

**WESTMORELAND
COUNTY (10)**

Complement 18

Albert, James E.
Bilik, Mark J.
Christner, Charles M., Jr.
Conway, Charles R.
Dalfonso, Joseph A.

DiClaudio, Mary S.
Eckels, Roger F.
Falcon, James N.
Franzi, Lawrence J.
King, J. Bruce

Kistler, Helen M.
Mahady, Michael R.
Mansour, Mark S.
McCutcheon, Bernice A.
Pallone, Frank J., Jr.

Peck-Yakopec, Cheryl J.
Thiel, Denise Snyder
Weimer, Douglas R., Jr.

**WYOMING-SULLIVAN
COUNTIES (44)**

Complement 4

Baumunk, Linda M.
Robinson, Patricia A.
Shurtleff, Russell D.
Smith, Carl W., Jr.

YORK COUNTY (19)

Complement 19

Dubs, Mervin L.

Edie, Nancy L.

Garber, Daniel B.

Groom, Walter R.

Gross, Scott J.

Haskell, Ronald J., Jr.

Heilman, Vera J.

Kessler, Harold D.

Leppo, Kim S.

Martin, Richard E., II

Meisenhelter, Douglas F.

Miner, James S.

Naylor, Alan G.

Nixon, Barbara H.

Olwert, John R.

Shoemaker, Gerald E.

Teyral, JoAnn L.

Thomas, Richard T.

Williams, Linda Lou

ADAMS COUNTY

Deardorff, Harold R.

ALLEGHENY COUNTY

Burnett, Edward
Casper, Raymond L.
Comunale, Frank, III
Devlin, Mark B.
Franci, Georgina G.*

Longo, Nancy L.
Peglow, Lee G.
Reed, Douglas W.
Terrick, Richard J.
Tibbs, Edward A.

Tucker, Robert E.**

* Removed from list 6-24-04

** Resigned 4-11-05

BEAVER COUNTY

Eiler, Donald L.**
Mihalic, Stephen D.*

* Retired 12-31-04

** Effective 2-1-05

BERKS COUNTY

Dougherty, John F.

BUCKS COUNTY

Groman, Oliver A.*

* Resigned 2-21-05

BUTLER COUNTY

Wise, Frank C.*

* Died 10-13-04

CAMBRIA COUNTY

Coleman, Alfred B.

CENTRE COUNTY

Horner, Ronald J.
Shoff, Robert A.

CHESTER COUNTY

Mull, Robert G.*
Welsh, Susann E.

* Resigned 3-10-05

CLARION COUNTY

Heasley, Norman E.

CLINTON COUNTY

Dwyer, Kevin R.*

* Resigned 3-10-04

DAUPHIN COUNTY

Magaro, Samuel J.
Rathfon, William P.
Williams, Edward R.
Yanich, Bernard B.*

* Effective 1-1-05

DELAWARE COUNTY

Harkin, Edward C.
LaRosa, Barbara
Liberace, Gerald C.*
McDevitt, Leonard M.
Quinn, Joseph T. F.

Senior

District

Justices

(As of 6-30-05)

**DELAWARE COUNTY,
continued**

Sellers, Nicholas
Shaffer, Robert M.
Truscello, Anthony M.

* Effective 4-4-05

ERIE COUNTY

Smith, Charles F.
Stuck, Ronald E.

FAYETTE COUNTY

Blair, Lawrence

**FRANKLIN/FULTON
COUNTIES**

Stover, J. William

GREENE COUNTY

Watson, John C.*

* Removed from list 6-24-04

INDIANA COUNTY

DeGrutolla, Delores
Steffee, Michael K.

JEFFERSON COUNTY

Lester, Guy M.*

* Retired 12-31-04

LANCASTER COUNTY

James, Doris R.
Miller, John W.
Reeser, Richard L.

LEBANON COUNTY

Shultz, Jo Ann
Spannuth, Mary M.*
Swisher, Hazel V.

* Retired 4-1-04

LEHIGH COUNTY

Dugan, John E.
Gatti, Richard A.
Hausman, Joan K.
Maura, Joseph J.*

* Resigned 2-25-05

LYCOMING COUNTY

McGee, Gerald A.
Stack, Robert W.

MCKEAN COUNTY

Ackerman, Thomas E.*

* Resigned 3-23-05

MERCER COUNTY

French, Ruth M.*

* Effective 4-1-05

MONROE COUNTY

Eyer, Charles P.*
McCool, Henry**

* Effective 6-14-04

** Retired 12-31-04

MONTGOMERY COUNTY

Berkoff, F. Elaine**
Hunter, James B.
Inlander, Gloria M.
Liss, Henry M.*
Price, Richard M.

* Retired 12-31-04

** Effective 2-1-05

NORTHAMPTON COUNTY

Frey, Elmo L., Jr.**
Grigg, Sherwood R.
Leo, Joseph N.
Romig, Elizabeth A.*

* Effective 3-5-05

** Effective 6-2-05

WASHINGTON COUNTY

Mark, Walter A.
Teagarden, Marjorie Lee

WAYNE COUNTY

Laabs, Dorothy C.

WESTMORELAND COUNTY

DelBene, Frank, Jr.
Medich, Martha
Scott, Robert E.

YORK COUNTY

Bria, Margaret L.
Diehl, Paul M., Jr.
Estep, Roger A.
Hodge, James D.
Lafean, John W.

Stambaugh, Quentin R.*

* Retired 12-31-04

**District Court
Administrators**

Administrator

Betty Davis Overman**
Mark D. Grim, Jr.
Raymond L. Billotte
Martha J. Davidson
Joseph Cabraja

Laurie J. Staub
Dale G. Derr
Michael D. Reighard
Mary Lou Vanderpool
G. Thomas Wiley#

Candace Y. Graff
Donald J. Scotilla
Roberta L. Brewster
Maxine O. Ishler
Margaret M. Yokemick

Tammy J. Slike
David S. Meholick
Miles D. Kessinger, III
Joseph A. Blass
John L. Shuttleworth

Taryn N. Dixon
Carolyn Crandall
Thompson, Esq.
Gerald C. Montella, Esq.
Martha Keller Masson
Thomas C. Aaron

Karen M. Kuhn
William A. Sheaffer
Audrey Szoyka
Carole D. Lang**
Deborah J. Higgins

Michael J. Kuhar
Norma R. Brown*
Patricia C. Ellis
William J. Murray++
Ronald C. Mackay

Mark M. Dalton
Michael A. Occhibone
David P. Wingert, Esq.
Susan T. Schellenberg
William T. Sharkey

Kevin H. Way, Esq.
Joanne L. Bly
Peter A. Morin

District

Adams

Allegheny
Armstrong
Beaver

Bedford
Berks
Blair
Bradford
Bucks

Butler
Cambria
Carbon
Centre
Chester

Clarion
Clearfield
Clinton
Columbia
Crawford

Cumberland
Dauphin

Delaware
Elk-Cameron
Erie

Fayette
Franklin-Fulton
Greene
Huntingdon

Indiana
Jefferson

Lackawanna

Lancaster
Lawrence
Lebanon
Lehigh
Luzerne

Lycoming
McKean
Mercer

**District Justice
Court
Administrators**

Administrator

Betty Davis Overman**
Mark D. Grim, Jr.
Nancy L. Galvach
Susan A. Davis
Aileen Bowers, Esq.

Laurie J. Staub
Faith Phillips
Patricia M. Gildea
Mary Lou Vanderpool
Charles A. Carey, Jr.

Candace Y. Graff
Donald J. Scotilla
Roberta L. Brewster
Barbara G. Gallo
Patricia L. Norwood-Foden

Tammy J. Slike
David S. Meholick
Miles D. Kessinger, III
Joseph A. Blass
John L. Shuttleworth

Ronald E. Johnson, Esq.
Philip M. Intrieri, Esq.+
Robert P. Hawley
Ward T. Williams, Esq.
Martha Keller Masson
Kathleen M. Yeager

Roberta A. Meese
William A. Sheaffer
Audrey Szoyka
Carole D. Lang**
Deborah J. Higgins

Michael J. Kuhar
Norma R. Brown*
Patricia C. Ellis
James A. Doherty, Jr., Esq.

Thomas N. Weaver, Esq.
Michael A. Occhibone
Kristen Jones
H. Gordon Roberts
Kathleen L. Hubbard

Kevin H. Way, Esq.
Joanne L. Bly
Peter A. Morin

**Court
Administrators**

(As of 6-30-05)

**Court
Administrators,
continued**

**District Court
Administrators**

Administrator

Melissa K. Fultz
Lyn Bailey

Michael R. Kehs, Esq.
Judy I. Melito
James N. Onembo
Brandy L. Yasenchak, Esq.
Robin L. Lehman

Joseph A. Cairone
Colleen McCarthy▲
Patricia Ann Fluty
Lois A. Wallauer
Charlotte N. Kratzer

Kathleen A. Riley
Mary L. Foster
Nancy L. Clemens
Carol E. Hutchison
Sherry R. Phillips##
Linda E. Critzer

Christine L. Weller
Linus Myers
Paul S. Kuntz, Esq.
Alma F. Custer
J. Robert Chuk

- * Retired 4-1-04
- ** Retired 4-30-04
- + Retired 11-30-04
- ++ Retired 1-21-05
- # Retired 4-1-05
- ## Retired 4-15-05
- ▲ Retired 6-24-05

District

Mifflin
Monroe

Montgomery
Montour
Northampton
Northumberland
Perry-Juniata

Philadelphia
Pike
Potter
Schuylkill
Snyder-Union

Somerset
Susquehanna
Tioga
Venango
Warren-Forest

Washington
Wayne
Westmoreland
Wyoming-Sullivan
York

**District Justice
Court
Administrators**

Administrator

Melissa K. Fultz
Deborah A. Krom

Michael J. Morris, Esq.
Joseph A. Blass
Debra C. French
Brandy L. Yasenchak, Esq.
Robin L. Lehman

Colleen McCarthy▲
Patricia Ann Fluty
Bruce D. Heffner
Charlotte N. Kratzer

Kathleen A. Riley
Mary L. Foster
Nancy L. Clemens
Carol E. Hutchison
Sherry R. Phillips##
Linda E. Critzer

Sally Michalski
Linus Myers
Donald L. Heagy, Jr.
Alma F. Custer
Terry R. Baker

Court Administrator

Zygmunt A. Pines, Esq.
*Court Administrator of
Pennsylvania*

Andrea B. Tuominen, Esq.
Assistant Court Administrator

Darren M. Breslin, Esq.
Special Projects Advisor

Dawn Brown
Administrative Assistant

Judicial Programs

Joseph J. Mittleman, Esq.
Director of Judicial Programs

Cherstin M. Hamel
*Assistant Director of
Judicial Programs*

Richard J. Pierce
*Judicial Programs
Administrator*

Amy Y. Kehner
*Judicial Programs
Administrator*

Owen J. Kelly, Esq.
*Judicial Programs
Administrator*

Diane Bowser
Controller

Judicial Services

Bunny Baum
Director of Judicial Services

Nicholene DiPasquale
Administrative Assistant

Policy & Research

Donald J. Harris, Ph.D.
Director of Policy & Research

Kim E. Nieves, Ph.D.
*Assistant Director of Policy &
Research*

Yan Liu
Statistical Analyst

Laurie A. Sacerdote
*Caseload Statistics
Coordinator*

Chief Counsel

Howard M. Holmes, Esq.
Chief Legal Counsel

Maryellen Gallagher, Esq.
Assistant Chief Legal Counsel

David M. Donaldson, Esq.
Chief of Litigation

A. Taylor Williams, Esq.
Assistant Chief of Litigation

Daryl Walker, Esq.
Mary Butler, Esq.
Geri Romanello St. Joseph, Esq.
Staff Attorneys

Timothy McVay, Esq.
Supervising Staff Attorney

David S. Price, Esq.
Tara A. Kollas, Esq.
Pamela S. Walker, Esq.
Staff Attorneys

Administrative

Office

of

Pennsylvania

Courts

Philadelphia

1515 Market Street
Suite 1414
Philadelphia, PA 19102
215-560-6300

(As of 6-30-05)

**Administrative
Office
of
Pennsylvania
Courts
Mechanicsburg**

**Deputy Court
Administrator**

Thomas B. Darr
*Deputy Court Administrator
of Pennsylvania*

Rhonda J. Hocker
Administrative Assistant

James J. Koval
*Communications Manager/
Assistant for Intergovern-
mental Relations*

Stuart Ditzen
*Assistant for
Communications*

David Lane
*Assistant for
Intergovernmental Affairs*

Arthur J. Heinz
*Communications/
Legislative Coordinator*

Steve Schell
Communications Coordinator

Gina L. Earle
Communications Assistant

Steven F. Angle
Payroll Manager

William L. Hollenbach
*Manager of Administrative
Services*

Frank P. Lalley
*Judicial Security
Administrator*

Mary Beth Marschik
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**Administrative
Office
of
Pennsylvania
Courts
Mechanicsburg,
continued**

Alphabetical Order**District Order**

County	District	District	County
Adams	51	01	Philadelphia
Allegheny	05	02	Lancaster
Armstrong	33	03	Northampton
Beaver	36	04	Tioga
Bedford	57	05	Allegheny
Berks	23	06	Erie
Blair	24	07	Bucks
Bradford	42	08	Northumberland
Bucks	07	09	Cumberland
Butler	50	10	Westmoreland
Cambria	47	11	Luzerne
Cameron-Elk	59	12	Dauphin
Carbon	56	13	Greene
Centre	49	14	Fayette
Chester	15	15	Chester
Clarion	18	16	Somerset
Clearfield	46	17	Snyder-Union
Clinton	25	18	Clarion
Columbia-Montour	26	19	York
Crawford	30	20	Huntingdon
Cumberland	09	21	Schuylkill
Dauphin	12	22	Wayne
Delaware	32	23	Berks
Elk-Cameron	59	24	Blair
Erie	06	25	Clinton
Fayette	14	26	Columbia-Montour
Forest-Warren	37	27	Washington
Franklin-Fulton	39	28	Venango
Fulton-Franklin	39	29	Lycoming
Greene	13	30	Crawford
Huntingdon	20	31	Lehigh
Indiana	40	32	Delaware
Jefferson	54	33	Armstrong
Juniata-Perry	41	34	Susquehanna
Lackawanna	45	35	Mercer
Lancaster	02	36	Beaver
Lawrence	53	37	Warren-Forest
Lebanon	52	38	Montgomery
Lehigh	31	39	Franklin-Fulton
Luzerne	11	40	Indiana

**Judicial
Districts**

**Judicial
Districts,
continued**

Alphabetical Order

District Order

County	District	District	County
Lycoming	29	41	Perry-Juniata
McKean	48	42	Bradford
Mercer	35	43	Monroe
Mifflin	58	44	Wyoming-Sullivan
Monroe	43	45	Lackawanna
Montgomery	38	46	Clearfield
Montour-Columbia	26	47	Cambria
Northampton	03	48	McKean
Northumberland	08	49	Centre
Perry-Juniata	41	50	Butler
Philadelphia	01	51	Adams
Pike	60	52	Lebanon
Potter	55	53	Lawrence
Schuylkill	21	54	Jefferson
Snyder-Union	17	55	Potter
Somerset	16	56	Carbon
Sullivan-Wyoming	44	57	Bedford
Susquehanna	34	58	Mifflin
Tioga	04	59	Elk-Cameron
Union-Snyder	17	60	Pike
Venango	28		
Warren-Forest	37		
Washington	27		
Wayne	22		
Westmoreland	10		
Wyoming-Sullivan	44		
York	19		

Glossary

Following is a glossary of terms commonly used in the judicial system.

A

abatement of action A suit that has been quashed and ended.

abeyance Incomplete or undetermined state of affairs.

abscond To run away or hide from the jurisdiction of the court in order to avoid legal proceedings.

abstract of record Abbreviated, but complete history of a case as found in the record.

abstract of title Concise chronological history of all official records and recorded documents affecting title to a parcel of land.

Accelerated Rehabilitative Disposition (ARD) Voluntary program established by Pennsylvania's Supreme Court in 1972 for first-time, non-violent offenders whereby offenders undergo a probation supervision program for two years without conviction. If the program is successfully completed, charges against the offender are dismissed.

accessory Person who aids or contributes in commission of a crime, usually by convincing someone to commit a crime or by helping the suspect escape or hide evidence. Usually not present during the crime. Compare **accomplice**.

accomplice Person who knowingly and voluntarily participates with another in a criminal act through aiding, abetting, advising or encouraging offender. See **aid and abet**. Compare **accessory**.

accord and satisfaction Method of discharging a claim whereby parties agree to give and accept something in settlement of claim. The new agreement is called the accord. The satisfaction is the action performed to settle the claim.

acknowledgment Short declaration at end of a legal paper showing paper was duly executed and acknowledged.

acquittal Verdict after a criminal trial that **defendant** is not guilty of charged crime. Compare **guilty**.

- action** A judicial proceeding. An action **in personam** is against a person. An action **in rem** is against a thing, usually where property is involved.
- actus reus** (ACK tus REE us) Proof that a criminal act has occurred. See **elements of a crime**.
- ad litem** (add LYE dem) For the purposes of the lawsuit. E.g., a **guardian ad litem** is appointed to prosecute or defend a suit on behalf of an incapacitated person or a minor.
- additur** (ADD ih tur) Increase by judge in amount of damages awarded by jury.
- adjudication** Pronouncing judgment or decree; the judgment given.
- administrator** One who administers estate of person who dies without a will. See **personal representative**. Compare **executor**.
- admissible evidence** Evidence which can be legally introduced in a trial.
- adversary proceeding** Proceeding having opposing parties; contested. Differs from **ex parte** proceeding.
- adversary system** Trial method used in U.S. and some other countries, based on belief that truth can best be determined by giving opposing parties full opportunity to present and establish evidence and to test by cross-examination evidence presented by adversaries under established rules of procedure before an impartial judge and/or jury.
- advocate** Person who assists, pleads, defends or prosecutes on behalf of another.
- affiant** Person who makes and signs an **affidavit**.
- affidavit** Voluntary written statement of facts given under oath. In criminal cases affidavits are often used by police officers seeking to obtain search or arrest warrants. In civil cases affidavits of witnesses are often used to support motions for summary judgment.
- affirm** Act of appellate court to uphold decision of a lower court.
- affirmative defense** Without denying charge, defendant raises extenuating or **mitigating circumstances** such as insanity, self-defense or entrapment to avoid civil or criminal responsibility.
- aggravated assault** See **assault**.
- aggravating circumstances** Circumstances occurring in commission of an offense which occur above and beyond the offense itself and which serve to increase the offense's guilt or enormity or add to its consequences. May increase sentence of individual convicted of the offense. Compare **mitigating circumstances**.
- aggrieved party** Party whose rights have been adversely affected by a court's or another person's actions.
- aid and abet** To actively, knowingly or intentionally assist another person in commission or attempted commission of a crime. See **accomplice**.
- alibi** Proof offered by defendant that he/she was at some other place at time of crime and thus could not have committed crime charged.
- allegation** Statement by a party in an **action** which the party intends to prove.
- alleged** Claimed as true.
- allocatur** (AL lo CAH tur) "It is allowed." Petition to **appeal**.
- allocution** In criminal cases, convicted defendant's statement to the sentencing judge or jury before sentencing. Victim's allocution is a crime victim's address to the court before sentencing.
- alternative dispute resolution (ADR)** Settling a dispute without a full, formal trial. Methods include **mediation, conciliation, arbitration** and settlement, among others.
- amenable** Legally accountable.
- amicus curiae** (uh ME kus KYU ree EYE) Friend of the court. One not a party to a case who, having strong interest in the outcome, offers information on a point of law or some other aspect of the case.
- answer** Defendant's response to plaintiff's **allegations** as stated in a **complaint**. Item-by-item, paragraph-by-paragraph response to points made in complaint. Part of the **pleadings**.
- appeal** Request to have a decision made by a lower court reviewed by a higher court.
- appearance** Coming into court. Formal act by which a defendant submits to the jurisdiction of a court. Compare **arraignment**.
- appellant** Party who initiates an appeal.
- appellate court** Court having jurisdiction to review decisions of lower courts or administrative agencies.

appellee Party against whom an appeal is taken. Also called a respondent.

arbitration Form of **alternative dispute resolution** in which parties bring a dispute to a neutral third party and agree to abide by the decision reached. Decisions usually cannot be appealed.

arraignment Proceeding in which an accused person appears before a judge to hear the criminal charges filed against him/her and to enter a plea of guilty or not guilty. Compare **preliminary hearing** and **initial appearance**. See also **appearance**.

array A panel of potential jurors or the jurors empaneled for a trial.

arrest To take into custody by legal authority.

arrest of judgment Act of delaying the effect of a **judgment** already entered.

assault Threat to inflict injury with an apparent ability to do so. Also, any intentional display of force which would give victim reason to fear or expect immediate bodily harm. Aggravated assault must include another act which is also criminal, e.g., an attempt to cause serious bodily injury, commit another crime or use a deadly weapon. Compare **battery**.

assumpsit Oral or written agreement or contract not under seal.

at issue Point in a lawsuit when complaining party has stated a claim and other side has responded with a denial. Contested points are said to be “at issue.”

attachment Legal seizure and holding of a person’s property pending outcome of a lawsuit. Also, arrest of person guilty of **contempt of court**.

attempt Effort to commit a crime, carried beyond preparation, but not executed.

attest To bear witness. To affirm to be true.

attorney-at-law **Advocate**, counsel or official agent employed in preparing, managing and trying cases in the courts. Generally shortened to attorney. Also called lawyer.

attorney-in-fact Private person, not necessarily an attorney, authorized by another to act in his place and stead, either for a particular purpose or for transaction of business in general that is not of a legal nature. Authority is conferred by an instrument in writing called

a letter of attorney or, more commonly, **power of attorney**.

attorney of record Principal attorney in a lawsuit who signs all formal documents relating to suit.

auter action pendant Another action pending.

averment A verification of fact, especially an **allegation** in a pleading.

B

backlog Number of pending cases exceeding the capacity of a court.

bail Money or other security (such as a **bail bond**) given to a court to temporarily secure a person’s release from **custody** and assure his/her appearance in court. May be forfeited should individual subsequently fail to appear before the court. Bail and bond are often used interchangeably.

bail authority In Pennsylvania the district justice, magistrate, Philadelphia bail commissioner or judge with jurisdiction over the case in question authorized by law to set, modify, revoke or deny bail.

bail bond (often referred to simply as bond) Obligation, signed by accused, to secure his/her presence at trial

bailiff Court attendant who keeps order in the courtroom and has custody of the jury.

bankruptcy Statutes and judicial proceedings involving persons or businesses who cannot pay debts and seek the assistance of the court in getting a fresh start.

bar Historically, partition separating general public from space occupied by judges, lawyers and other participants in a trial. More commonly, the whole body of lawyers. A “case at bar” is a case currently being considered.

bar examination State examination taken by prospective lawyers in order to be admitted to practice law.

battered child syndrome Medical and psychological condition of a child who has suffered continuing injuries not inflicted accidentally and thus are presumed to have been inflicted by someone close to the child.

- battered woman syndrome** Medical and psychological condition of a woman who has been physically, sexually and/or emotionally abused by a spouse or lover. Also called battered wife syndrome or battered spouse syndrome.
- battery** Physical contact intended to harm someone. Threat to use force is **assault**; use of it is battery, which usually includes an assault. Aggravated battery is unlawful use of force with unusual or serious consequences, e.g., use of a dangerous weapon.
- bench** Seat occupied by the judge or the court itself.
- bench conference** See **sidebar conference**.
- bench ruling** Oral ruling from a judge on the bench.
- bench trial** Trial with no jury, in which the judge decides the facts.
- bench warrant** Arrest warrant issued directly by a judge.
- beneficiary** Someone named to receive benefits from a legal device such as a will, trust or insurance policy.
- bequeath** To give someone a gift through a will.
- bequest** Gift made in a will.
- best evidence** Primary evidence; best evidence available. Evidence short of this is “secondary.” E.g., an original letter is the best evidence; a photocopy is secondary evidence.
- beyond a reasonable doubt** Standard in a criminal case requiring the jury to be satisfied “to a moral certainty” that every element of a crime has been proven by the prosecution. Does not require state to establish absolute certainty by eliminating all doubt, but does require that evidence be so conclusive that all **reasonable doubts** are removed from the mind of the ordinary person.
- bifurcation** Dividing the issues in a case so that one issue can be decided before the others. E.g., a divorce will often be granted before custody, support and marital property issues are resolved.
- bill** Formal written declaration, petition, complaint or statement. E.g., a declaration of wrong a complainant has suffered is a bill of complaint. Also, a draft of a new or amended law presented to a legislature for action.
- bill of evidence** Transcript of testimony heard at trial.
- bill of particulars** Statement detailing charge/s made against defendant.
- billable hour** Unit of time used by attorneys to account for work completed for clients and chargeable to clients. Usually broken into tenths or quarters of hours.
- bind over** To hold a person for trial on bond (**bail**) or in jail. If the judicial official conducting the preliminary hearing finds **probable cause** to believe accused committed a crime, he/she will “bind over” accused, normally by setting **bail** for the accused’s appearance at trial.
- binding instruction** Instruction in which jury is told that if it finds certain conditions to be true, to find for the plaintiff or defendant, as the case may be. Compare **directed verdict**.
- blackletter laws** Informal term encompassing basic principles of law generally accepted by courts or present in statutes of a particular jurisdiction. Also called hornbook laws.
- blood alcohol content (BAC)** Concentration of alcohol in one’s bloodstream. Federal law requires that all states adopt a maximum BAC of 0.08% for one to be considered legally drunk.
- blue laws** Laws regulating commercial activity on Sundays.
- blue sky laws** State statutes regulating sale of securities.
- bona fide** Made in good faith. Sincere; genuine.
- bond** See **bail bond**.
- booking** Process of photographing, fingerprinting and recording identifying data of a suspect following arrest.
- breach of contract** Legally inexcusable failure to perform contractual obligation.
- Breathalyzer** Device used to measure **blood alcohol content** via a person’s breath.
- brief** Written statement prepared by one side in a lawsuit to explain to the court its view of the facts of a case and applicable law.
- burden of proof** Necessity or duty to prove a fact in a dispute. Not the same as standard of proof. Burden of proof deals with which side must establish a point or points; standard of proof indicates degree to which point must be proven.
- burglary** Breaking into and entering a building with intent to commit a felony.

C

- calendar** List of cases scheduled for hearing in court.
- call to the bar** To admit someone to practice law.
- calling the docket** Public calling of the **docket** or list of **causes** at commencement of a court term.
- calumny** (KAL uhm nee) Maliciously accusing someone falsely in order to damage that person's reputation.
- capital crime** Crime punishable by death.
- capital punishment** See **death penalty**.
- caption** Heading on a legal document listing parties, court, case number and related information.
- case at bar** See **bar**.
- caselaw** Collection of reported cases that form the body of law within a jurisdiction. Also known as **jurisprudence**.
- caseload** Total number of cases filed in a given court or before a given judicial officer for a given period of time.
- cause** Lawsuit, litigation or **action**.
- cause of action** Facts that give rise to a lawsuit.
- caveat** (KA vee OTT) Warning; note of caution.
- cease and desist order** Order of an administrative agency or court prohibiting a person or business from continuing a particular course of conduct.
- censure** An official reprimand, particularly of a public official.
- certiorari** (SIR she oh RARE ee) Writ issued by appellate court directing lower court to deliver record of a case for review. Often referred to as "granting cert."
- challenge** Objection, such as when an attorney objects at **voir dire** hearing to seating of a particular individual on a jury. May be **challenge for cause** or **peremptory challenge**. See also **challenge to the array**.
- challenge to the array** Questioning the qualifications of an entire jury panel, usually on the grounds of some legal fault in composition of the panel, e.g., racial discrimination.
- challenge for cause** Objection to seating of a particular juror for a stated reason, usually bias or prejudice for or against one party in the lawsuit. Judge has discretion to deny challenge. Also known as challenge to the poll. Compare **peremptory challenge**.
- change of venire** (veh NI ree; popularly pronounced veh NEER) Bringing in a jury from another county to hear a trial, usually because of concerns that pretrial publicity has made empaneling an impartial jury difficult. Compare **change of venue**.
- change of venue** Moving a lawsuit to another place for trial, usually because pretrial publicity has made empaneling an impartial jury difficult. Compare **change of venire**.
- character evidence** Testimony of witnesses who know the general character and reputation of a person in the community in which that person lives.
- charge** Formal complaint issued accusing an individual of a crime. Compare **indictment** and **information**. Also, judge's instruction to the jury concerning law which applies to the facts of a case. Also called **instruction**. Compare **binding instruction** and **directed verdict**.
- circuit court** Court whose jurisdiction extends over several counties or districts and which holds sessions in all of those areas. Pennsylvania's appellate courts are circuit courts, holding sessions in various locations throughout the Commonwealth.
- circumstantial evidence** Evidence which suggests something by implication, from which an inference can be drawn, e.g., physical evidence, such as fingerprints. Also called indirect evidence. Compare **direct evidence**.
- citation** Reference to source of legal authority. Also, writ issued by a court commanding a person to appear at a specified place and time and do something specified or to give just cause why he/she should not. Also, direction to appear in court, as when a driver receives a citation for a moving or parking violation.
- civil actions** Noncriminal cases in which one private party sues another for redress of private or civil rights.
- civil procedure** Entire process by which a civil case is tried.

- class action** Lawsuit brought by one or more persons on behalf of a larger group.
- clear and convincing evidence** Evidence indicating that which is to be proven is highly probable or reasonably certain. Greater than **preponderance of evidence**, which is generally the standard applied in civil trials, but less than the evidence **beyond a reasonable doubt** required in criminal trials.
- clemency** (also called executive clemency) Act of grace or mercy by president or governor to ease consequences of criminal act, accusation or conviction. May take form of **commutation** or **pardon**.
- clerk of courts** In Pennsylvania an officer appointed or elected to oversee court matters of a criminal nature such as the filing of motions or petitions. Compare **prothonotary**.
- closing argument** In a trial, closing statements by counsel to the judge or jury after evidence has been presented. Also called summation.
- code** Complete, systematic collection of laws.
- codicil** (KOD I sill) Addition to a will.
- cognovit actionem** (KOG NO vit ACK she OH nem) "He has confessed the action." Written confession by defendant of plaintiff's claim. Usually upon condition. Authorizes plaintiff's attorney to sign **judgment** and issue execution.
- cognovit judgment** See **confession of judgment**.
- commit** To send a person to prison, an asylum or reformatory pursuant to court order.
- common law** Law arising from tradition and judicial decisions rather than laws passed by the legislature. Originated in England and has been followed as law in most American jurisdictions. Compare **statute**.
- Common Pleas Court** See **Court of Common Pleas**.
- community service** Sentencing option whereby offender performs volunteer work for government, non-profit or community-based organizations.
- commutation** Form of **clemency** reducing one's sentence, as from death to life imprisonment.
- comparative negligence** Legal doctrine by which negligence of plaintiff determines amount plaintiff may recover from defendant. Compare **contributory negligence**.
- complainant** See **plaintiff**.
- complaint** Legal document that usually begins a civil lawsuit. States facts and identifies action court is asked to take.
- conciliation** Form of **alternative dispute resolution** in which parties bring their dispute to a neutral third party, who helps reach a solution. Nonbinding. Similar to **mediation**, but may be less formal.
- concur** To agree, act together or consent. Compare concurring opinion under **opinion**.
- concurrent sentence** Two or more sentences served at same time rather than one after another. Three five-year terms served concurrently add up to no more than five years in prison. See also **consecutive sentence**.
- condemnation** Legal process by which government invokes its powers of **eminent domain** and takes privately owned property for public use, paying owners just compensation. Also, act of judicially pronouncing someone **guilty**. Usually called **conviction**.
- confession of judgment** Act of a debtor in permitting **judgment** to be entered against him/her by a creditor. Also known as cognovit judgment.
- consecutive sentences** Successive sentences, one beginning at the expiration of another. Three five-year terms served consecutively impose a 15-year sentence. Also called cumulative sentence. See also **concurrent sentence**.
- consent decree** Disposition in juvenile court in which proceedings are suspended and child is continued under supervision in his/her own home under terms and conditions negotiated with probation services and agreed to by all parties concerned. Also, a court decree to which all parties agree.
- consent judgment** See **judgment**.
- conservatorship** See **guardianship**.
- consideration** Inducement for which a party enters into a contract.
- conspiracy** Two or more people joining together to commit an unlawful act.
- contempt of court** Willful disobedience of judge's command or official court order.
- contingency fee** Fee for an attorney's services paid only if attorney is successful or suit is

- favorably settled out of court. Fee is usually a percentage of the amount client recovers.
- continuance** Postponement of a legal proceeding to a later date.
- contributory negligence** Legal doctrine that says if plaintiff in a civil action for negligence was also negligent, he/she cannot recover damages from defendant for defendant's negligence. Most jurisdictions have abandoned this doctrine in favor of **comparative negligence**.
- controlled substance** A drug whose possession and use is controlled by law.
- conviction** Act of judicially declaring a criminal defendant **guilty**. Also called condemnation.
- copyright** Exclusive right of the author of a literary or artistic work to control how his/her work is used. Many jurisdictions have expanded this right to include computer programs and other electronic data.
- corporal punishment** Physical punishment, e.g., spanking, caning or branding.
- corpus delicti** (COR pus di LICK ty) Material substance (body) upon which a crime has been committed, i.e., the physical evidence a crime has been committed, e.g., the body of a homicide victim or broken windows in a vandalized building.
- corroborating evidence** Supplementary evidence that strengthens or confirms initial evidence.
- counsel** Another name for attorney. Also, advice given by an attorney to a client.
- count** Each offense listed in a **complaint, information** or **indictment**.
- counterclaim** Claim made by defendant against plaintiff in a civil lawsuit, especially in opposition to the plaintiff's claim.
- court administrator** Officer who oversees administrative, nonjudicial activities of a court.
- Court of Common Pleas** Intermediate original court in some states, including Pennsylvania, that usually has civil and criminal jurisdiction. In Pennsylvania Common Pleas Courts also hear appeals from certain state and most local government agencies and from the minor courts. May also be referred to as trial courts or county courts.
- court costs** Fees and costs legally charged by the court for expenses of the litigation, e.g., filing fees, jury fees, reporter fees. Also, an amount of money that may be awarded to the successful party, recoverable from the losing party, as reimbursement for the cost of the litigation.
- court order** A court or judge's written command.
- court of record** Court whose proceedings are permanently recorded and which has power to fine or imprison for contempt.
- court reporter** Person who records and transcribes verbatim reports of all proceedings in court. Also called a stenographer.
- court-martial** Military court set up to try military personnel accused of crimes.
- crime** Type of behavior defined by law as deserving punishment. Crimes are classified as either **misdemeanors** or **felonies**.
- crime of passion** Crime committed during an intensely emotionally-charged moment.
- Crimes Code** Short title for Title 18 of *Purdon's Pennsylvania Statutes*, "Crimes and Offenses."
- criminal history record information** Information collected by criminal justice agencies on individuals with arrest records. Includes descriptions and notations of arrests, detentions, indictments or other formal criminal charges, dispositions, sentencing, correctional supervision and release. Also called a prior record or rap sheet.
- criminal insanity** Mental condition which renders a person unable to determine right from wrong. Defendants criminally insane cannot be convicted as criminal conduct involves conscious intent to do wrong.
- criminal summons** Order commanding accused to appear in court. May be issued in lieu of an arrest warrant for misdemeanors when the issuing official believes the accused will appear without being placed under bail.
- cross-claim** Claim by codefendants or coplaintiffs against each other.
- cross-examination** Questioning of witness by opponent in a trial. Compare **direct examination**.
- cruel and unusual punishment** Punishment that is considered barbaric, tortuous, degrading and out of proportion to the crime committed. Prohibited by the Eighth Amendment to the U.S. Constitution, although not specifically defined.

cumulative sentence See **consecutive sentence**.

custody Responsibility for care of a person, often a minor child whose parents are divorced. Legal custody is the right to make decisions regarding child's care and upbringing. Physical custody is the right to have child live with the individual to whom physical custody has been granted. Joint custody is custody shared by both parents. Sole custody is when one parent has lone control over a child. Also, being held under control by law enforcement officials. Being in custody is being under **arrest**. See also **protective custody**.

D

damages Money awarded by court to a person for injury or loss suffered by the unlawful act or negligence of another. Compensatory or actual damages are awarded for amount actually loss, as in payment of hospital bills. Punitive damages are awarded above and beyond actual damages to punish the guilty party and deter any future similar actions.

de facto In fact. Exercising power as if legally constituted. Compare **de jure**.

de jure (dee JOOR ee) By right; by the law. Exercising power in accordance with the law. Compare **de facto**.

de novo (deh NO vo) Anew. A "trial de novo" is a new trial of a case.

death penalty Sentence of death for being convicted of committing certain serious crimes such as murder. Also called capital punishment.

decedent Person who has died.

decision Judgment reached or given by a court.

declaratory judgment Judgment in a civil case that declares rights and responsibilities of the parties or interpretation of the law without awarding damages or requiring action. E.g., a court may be asked to issue a declaratory judgment on the constitutionality of a statute or whether an insurance policy covers a given activity. Usually requested by plaintiffs in order to avoid future legal difficulties.

decree Order of the court. A final decree fully and finally disposes of litigation. An interlocutory decree settles preliminary or subordinate points or pleas, but not entire case.

defamation Harming the reputation of another by making false statements to a third party, thus exposing the individual to ridicule, hatred, contempt or condemnation. May be criminal or civil. Includes **libel** and **slander**.

default Failure to fulfill a legal or contractual obligation.

default judgment Judgment entered against a defendant who does not respond to a claim or does not appear at trial.

defendant In a civil case, the person being sued. In a criminal case, the person charged with a crime.

demurrer (dih MUR rer) Motion still used in Pennsylvania to dismiss a civil case because the complaint is legally insufficient. In most states this is now called a **motion to dismiss**.

deponent One whose **deposition** is being taken.

depose To testify, bear witness. Also, to examine a witness via **deposition**.

deposition Sworn testimony of a witness taken under oath outside of court. Also, the session at which such testimony is recorded.

descent and distribution statutes State laws that provide for distribution of estate property when a person dies without a will. Also known as intestacy laws. Compare **intestate succession**.

direct evidence Proof of facts by witnesses who saw acts done or heard words spoken, as distinguished from **circumstantial**, or indirect, evidence.

direct examination First questioning of a witness by the party who called him/her. Compare **cross-examination**.

directed verdict Instruction by judge to jury to return a specific verdict, usually because one party failed to prove its case. Compare **binding instruction**.

disbarment Form of disciplining a lawyer whereby he/she loses, permanently or temporarily, the right to practice law.

discharge Dismissal of a case. Also, vacating of a court order. Also, dismissal of a juror, jury or

witness from any further responsibilities in a case.

disclaim To renounce one's legal rights or claims.

discovery Pretrial process by which one party reveals, at other party's request, relevant information about the litigation.

dismissal Termination of a lawsuit. "Dismissal without prejudice" permits the suit to be filed again at a later time. "Dismissal with prejudice" prevents the lawsuit from being refiled.

disorderly conduct Conduct that bothers others or disturbs the peace, such as loitering, public drunkenness, parties that are too loud.

disposition Court's final determination of a lawsuit or criminal charge.

dissent Disagreement by one or more appellate court judges with the decision the majority.

disturbing the peace Engaging in **disorderly conduct**.

diversion Process of removing certain minor criminal, traffic or juvenile cases from full judicial process on condition that accused undergo some sort of rehabilitation or training, e.g., job training. If defendant completes probation successfully, the charges may be dropped.

docket List of cases to be heard by court. Also, log containing brief entries of court proceedings.

domicile Place where a person has his/her permanent, legal home. A person may have several residences, but only one domicile.

double jeopardy Putting a person on trial more than once for the same crime. Forbidden by the Fifth Amendment to the U.S. Constitution.

due process of law Right of all persons to receive guarantees and safeguards of law and judicial process. Includes such constitutional rights as adequate notice; assistance of counsel; and rights to remain silent, to a speedy and public trial, to an impartial jury, and to confront and secure witnesses.

wear an electronic device which transmits the individual's whereabouts to a receiver that is monitored for violations. Usually used in connection with **house arrest**.

elements of a crime Specific factors that define a crime, which the prosecution must prove **beyond reasonable doubt** in order to obtain **conviction**. Elements that must be proven are (1) that a crime actually occurred (**actus reus**), (2) that the accused intended the crime to happen (**mens rea**), (3) a timely relationship between the first two factors.

embezzlement Fraudulently taking property or money entrusted to one individual by another.

eminent domain Power of the government to take private property for public use, after paying owner reasonable compensation. See **condemnation**.

en banc All judges of a court sitting together. Appellate courts often hear cases in panels of three judges. If a case is heard or reheard by the full court, it is heard en banc.

encumbrance A claim against property.

enjoin To require a person, via an **injunction**, to perform or abstain from performing some specific act.

entrapment Defense to criminal charges, alleging that agents of the government induced a person to commit a crime he/she otherwise would not have committed.

equal protection of the law Guarantee in the Fourteenth Amendment to the U.S. Constitution that all persons or classes of persons be treated equally by the law.

equitable action Action which seeks just, fair, nonmonetary remedy, e.g., an **injunction**.

equitable distribution Fair distribution of marital property in a divorce. May not mean equal distribution.

equity Generally, **justice** or fairness; body of principles that determine what is just or fair. Historically, refers to a system of law developed in England in reaction to the legal inability of common law courts to consider or provide remedy for every injury. The king established a court of chancery to do justice between parties in cases where common law would give inadequate redress. Compare **justice**.

E

electronic monitoring Type of sentencing or arrest wherein an individual is required to

escheat (iss SHEET) Process by which the property of one who has died goes to the state if no heir can be found.

esquire Title used after an attorney's name.

estate All properties owned by an individual when he/she dies.

estate tax Tax paid on an estate as it passes to the heirs.

estoppel Principle that prevents someone from claiming or denying something in court that contradicts what has already been established as fact.

evidence Information presented in court to prove or disprove **alleged** facts. See also specific types, including **admissible, best, character, circumstantial, clear and convincing, corroborating, direct, expert, hearsay, irrelevant, material, opinion, prima facie, real, relevant, state's and substantive evidence**. Compare **rebuttal, testimony, preponderance of evidence, corpus delicti, exhibit** and **weight of evidence**.

ex delicto (ex dee LICK toh) Arising from a tort; breach of duty.

ex officio By virtue of an office or position.

ex parte (ex PART ee) On behalf of only one party, without notice to any other party. E.g., a request for a search warrant is an **ex parte proceeding** since person subject to the search is not notified of proceeding.

ex parte proceeding Proceeding in which only one side is represented. Differs from **adversary system** or **proceeding**.

ex post facto (ex post FAC toh) After the fact. E.g., ex post facto laws permit conviction and punishment for a lawful act performed before law was changed and act was made illegal. The U.S. Constitution prohibits these.

examination Questioning of witness under oath. See **direct examination** and **cross-examination**.

exclusionary rule Rule preventing illegally obtained evidence from being used in any trial. See **suppress**.

exculpate To free from blame or accusation, particularly in matters of small importance. Compare **exonerate**.

execute (a judgment or decree) To put final judgment of court into effect.

executor Personal representative, named in a will, who administers an estate. Compare **administrator**.

exempt property Certain property protected by law from creditors.

exhibit Document or other article introduced as evidence in court.

exonerate Removal of a charge, duty or responsibility. Also, to clear completely from accusation or blame and any attendant suspicion of guilt. Compare **exculpate**.

expert evidence Testimony relating to scientific, technical or professional matters given by persons particularly qualified by reason of special training, skill or familiarity with the subject.

expert witness Person with special knowledge in a particular field who may testify and give opinion on meanings of facts related to that knowledge. See also **opinion evidence**.

expungement Official and formal removal of conviction from a criminal record.

extenuating circumstances See **mitigating circumstances**.

extortion Illegally obtaining money or property by force, threat, intimidation, or undue or illegal power.

extradition Process by which one state or nation surrenders to another state or nation a person accused or convicted of a crime in the requesting state/nation.

F

fair comment Term used in **libel** law applying to statements relating to matters of public concern made by a writer in honest belief that they are true, even though they are not.

false arrest Arresting an individual without proper legal authority.

false pretenses Purposely misrepresenting a fact or condition in order to obtain another's money or goods.

family court Court having jurisdiction over family matters such as child abuse and neglect, support, paternity and custody.

felony Serious crime punishable by imprisonment for more than a year or death and/or substantial fines. Compare **misdemeanor**.

fiduciary (fih DOO she AIR ee) Person having a legal relationship of trust and confidence with another and a duty to act primarily for the other's benefit, e.g., **guardian**, **trustee** or **executor**.

file To submit a paper to the clerk of court/court administrator to be entered into the official files or records of a case. Also, to begin a lawsuit.

finding Formal conclusion by judge, jury or regulatory agency on issues of fact.

fine Money penalty imposed in criminal or civil actions.

first appearance See **initial appearance**.

forcible entry and detainer Summary proceeding for restoring possession of land to one who has been wrongfully deprived of it.

forgery Falsely and fraudulently making or altering a document, e.g., a check.

fraud Intentional deception to deprive another person of property or to injure that person in some other way.

frivolous lawsuit Lawsuit having no legal merit. Often filed to harass defendant.

G

garnishment Legal proceeding in which a debtor's money is seized to pay the debtor's creditors, such as when one's wages are garnished.

good faith Honest belief; absence of **malice** and intent to defraud. Also known as **bona fide**.

good time Reduction in time served in prison as reward for good behavior.

grand jury Group of citizens, usually numbering 23, assembled to determine whether enough evidence exists to charge an individual with a felony. May issue **indictment**, charging the suspect, or may have power to issue **presentment**. Compare **petit jury**.

granting cert See **certiorari**.

gravamen (gruh VAY men) The significant point of a grievance or complaint.

guardian ad litem (add LYE dem) Person appointed by court to look after interests of a minor or incapacitated person involved in legal proceedings.

guardianship Legal right given to a person to care for an individual or his/her property when that individual is deemed incapable of doing so for him/herself. Also called **conservatorship**.

guilty Plea made by accused in confessing crime with which charged. Also, verdict reached when jury convicts defendant of crime with which charged. Compare **acquittal**.

H

habeas corpus (HAY be us KOR pus) Writ that orders a person to be brought before a judge, usually to determine whether that individual is being legally detained or imprisoned.

harmless error Error committed during trial which was not serious enough to affect outcome of trial and thus is not grounds for reversal. Compare **reversible error**.

hearsay Evidence not known to a witness personally, but which was relayed to witness by a third party. Generally inadmissible in court.

holographic will Will written by testator in his/her own handwriting, usually unwitnessed.

homicide Killing of one human being by another.

hornbook laws See **blackletter laws**.

hostile witness Witness biased against the examining party or who does not want to testify. May be asked **leading questions**.

house arrest Sentence or type of arrest whereby an individual is confined to his/her residence except for preapproved trips, such as medical appointments, work, community service obligations, etc. Often used in connection with **electronic monitoring**.

hung jury Jury unable to reach a verdict.

hypothetical question Imaginary situation, incorporating facts previously established, upon which an **expert witness** is permitted to give an opinion. Most often asked of medical experts in personal injury suits.

I

- immediate cause** Last event in a series of events which causes another event, particularly an injury, to occur. May or may not also be the **proximate cause**. An event may have more than one proximate cause, but only one immediate cause.
- immunity** Agreement by court not to prosecute an individual in exchange for that individual providing criminal evidence.
- impeach** To attack the credibility of a witness. Also, to charge with a crime or misconduct; in particular, to charge a public official with a violation of the public trust. Also, to challenge the authenticity or accuracy of a document.
- impunity** Exemption from punishment.
- in camera** In the judge's private chambers, or in private. A hearing in camera takes place in the judge's office, outside of the presence of jury and public.
- in forma pauperis** (in FORM uh PAH per us) In the manner of a pauper. Permission given to an **indigent** or poverty-stricken individual to sue without payment of court fees.
- in limine** (LIM ih nee) Motion requesting that court exclude certain evidence that might prejudice jury.
- in perpetuity** Forever.
- in personam** (per SO nam) Procedural term used to designate proceedings or actions involving the personal rights and interests of the parties. Compare **in rem**.
- in propria persona** (PRO pree uh per SO nuh) See **pro se**.
- in rem** Procedural term used to designate proceedings or actions in determining the status of a thing or the rights of persons with respect to that thing. Compare **in personam**.
- inadmissible** That which under rules of evidence cannot be admitted as evidence.
- incarcerate** To confine in jail.
- incompetent** Person lacking the capacity, legal qualification or fitness to manage personal affairs or to discharge a required duty.
- indemnity** Liability or loss shifted from one person held legally responsible to another.
- indeterminate sentence** Sentence with specified minimum and maximum length, e.g., one to five years in prison. Also, a maximum sentence which may be reduced by a parole board, via statutory authorization, after minimum term has been served.
- indictment** Formal written accusation by a **grand jury** charging a person with a crime. Compare **charge**, **information**, **presentment**.
- indigent** Poor person. An individual who can demonstrate his/her indigence to the court may be assigned a court-appointed attorney or may not have to pay filing fees and court costs. See also **in forma pauperis**.
- indirect evidence** See **circumstantial evidence**.
- inferior court** Court of special, limited or statutory jurisdiction. May also denote any court subordinate to chief appellate court. See **limited jurisdiction**.
- information** Formal accusation of a crime filed by a prosecutor without a grand jury indictment. Compare **charge** and **indictment**.
- infraction** Violation of law usually not punishable by imprisonment, e.g., minor traffic offenses.
- initial appearance** First appearance in court of a person who has been arrested, to hear charges read, be advised of rights and have bail determined. Person generally comes before judge within hours of arrest. Also called first appearance. Compare **arraignment** and **preliminary hearing**.
- injunction** Court order preventing or requiring a specific action. See **preliminary injunction** and **permanent injunction**.
- instructions** Judge's directions/guidelines to jury regarding law which applies to the facts of a case. Also called **charge**. Compare **binding instruction** and **directed verdict**.
- intangible assets** Nonphysical items such as patents, trademarks, copyrights and good will.
- integrated bar** State bar association to which a lawyer must belong in order to practice in that state.
- inter alia** (IN ter AY lee uh or AH lee uh) Among other things.
- inter alios** (IN ter AY lee us or AH lee us) Among other persons.

inter vivos gift (IN ter VEE VOHS) Gift made during giver's life.

inter vivos trust See **living trust**.

interlocutory appeal Appeal made before the trial court's final ruling on the entire case.

interlocutory decree See **decree**.

interlocutory order Any order given before the final order is issued. Usually cannot be appealed until case is fully resolved.

intermediate punishment Set of sentencing options more severe than probation, but not as severe as incarceration. Includes, among other options, **electronic monitoring**, intensive supervision, and residential drug and alcohol treatment. May or may not involve housing of offender.

interpleader Suit filed by a party holding property who does not know to whom the property should go, to determine who should receive the property.

interrogatories Written questions submitted to another party in a lawsuit for which written answers must be provided. Part of **discovery** process.

intervention Action by which a third party who may be affected by a lawsuit is permitted to become a party to the suit. Compare **third party claim**.

intestacy laws (in TES ta see) See **descent and distribution statutes**.

intestate One who dies without leaving a will.

intestate succession Process by which property of person who has died without a will or whose will has been revoked is distributed to others. Compare **descent and distribution statutes**.

irrelevant Evidence not related or applicable to an issue in a trial and thus not admissible.

irrevocable trust (ear REV o cuh b'l) Trust that, once set up, grantor may not revoke.

issue Disputed point between parties in a lawsuit.

J

joinder Joining parties or claims in a lawsuit. Compare **misjoinder** and **nonjoinder**.

joint and several liability Legal doctrine which makes any number of members of a party responsible for a liability, at adversary's discretion.

joint tenancy Form of legal co-ownership of property which gives the survivors, when one of the owners dies, the rights to the decedent's shares of the property. Tenancy by the entirety is a special form of joint tenancy between husband and wife. Compare **tenancy in common**.

joint custody See **custody**.

judge Elected or appointed public official with authority to hear and decide cases in a court of law. A judge pro tem is a temporary or visiting judge. Compare **justice** and **magistrate**.

judgment Final disposition of a lawsuit. See **consent judgment**, **declaratory judgment**, **default judgment**, **summary judgment** and **non obstante veredicto**.

judicatory Relating to judgment.

judicial bypass Obtaining permission from the court to do something that ordinarily requires permission of someone else, e.g., a minor obtaining a court order to have an abortion without notifying her parents.

judicial officer An officer of a court; someone charged with upholding the law, administering the judicial system.

judicial review Authority of court to review and declare unconstitutional actions of other branches of government.

Judiciary Act Repealer Act (JARA) Act of 1978 that enacted 42 Pa.C.S., Pennsylvania's judicial code.

judicial (juh RID ih kul) Relating to law, judicial proceedings and administration of justice.

judicial day Day on which a court is in session.

juris Of law.

Juris Doctor Doctor of Law. Law degree bestowed on those who have successfully graduated from law school.

jurisdiction Court's authority to hear and/or decide a case. Also, territory in which a court is authorized to hear cases.

jurisprudence Study of law and legal system. See also **caselaw**.

jurist One skilled or versed in the law. Also refers to judges, justices, district justices, magistrates, etc.

jury Group of people selected according to law and sworn to decide questions of fact and render a decision about these matters. See **grand jury** and **petit jury**.

jury commissioner Court officer responsible for choosing the panel of potential jurors for a particular court term.

jury instructions See **instructions**.

justice Fair administration of laws. Compare **equity**. Also, an appellate court judge. Compare **judge** and **magistrate**.

justice of the peace Local judicial officer who has **limited jurisdiction**, usually involving minor offenses and civil matters, and with authority to perform civil functions such as marriages. Pennsylvania used justices of the peace prior to the Constitution of 1968.

justiciable (jus TISH ee uh b'l) Of issues and claims which may be properly examined in court.

juvenile Person who has not yet reached age (usually 18) at which he/she can be treated as adult for purposes of criminal law.

juvenile court Court having jurisdiction over cases involving children under a specific age, usually 18.

juvenile delinquent A minor guilty of criminal or anti-social behavior for which he/she may not be punished as an adult.

K

kidnapping Unlawfully taking and carrying away a person by force, against his/her will.

King's Bench power Extraordinary jurisdiction given some high courts, including Pennsylvania's Supreme Court, to assume **adjudication** of any case pending before a lower court which involves issue/s of immediate public importance. In Pennsylvania the Supreme Court can do this on its own or upon petition from any party.

knowingly Willfully or intentionally with respect to a material element of an offense.

L

lack of jurisdiction Court's lack of power to act in a particular manner or to give certain kinds of relief.

lapsed gift Gift made in a will to a person who died before will-maker.

larceny Unlawfully taking personal property with intent to deprive owner of it permanently. Also called theft. Differs from **robbery**.

law Rules established by governing authorities to maintain order in a society.

law clerks Law students who assist judges and attorneys with legal research, writing, etc.

leading question Question which suggests answer desired of witness. Generally may be asked only of a **hostile witness** and on **cross-examination**.

leave of court Permission received from a court to take a nonroutine action.

legal aid Professional legal services available for free or for reduced cost to those unable to afford them.

legal custody See **custody**.

leniency Recommendation by prosecutor to judge for a sentence less than maximum allowed.

levy Seizing property of a debtor for satisfaction of a judgment against him/her. Also, imposition of fine or tax.

liable Legally responsible for.

libel Published words or pictures that falsely and maliciously defame a person. Compare **slander** and **fair comment**.

lien Legal claim against another person's property as security for a debt, lasting until the debt has been paid.

limited action Civil action in which recovery of less than a certain amount as specified by statute is sought.

limited jurisdiction Courts limited in types of cases they may hear. In Pennsylvania these courts include district justice courts, Philadelphia Municipal Court, Philadelphia Traffic Court and Pittsburgh Magistrates Court. Also called minor courts or special courts. See **inferior court**.

lis alibi pendens (liss PEN DENZ) Lawsuit pending elsewhere.

lis pendens Pending suit. Also, legal notice that a dispute exists which may affect title to a certain piece of land.

litigant Party to a lawsuit.

litigation Lawsuit or process of carrying through a lawsuit.

living trust Trust set up and in effect during lifetime of grantor. Also called inter vivos trust. Compare **testamentary trust**.

M

magistrate Local judicial official having limited original jurisdiction, especially in criminal cases. Also often used to refer to a judge. Compare **judge** and **justice**.

mala in se (MAL uh in see) “Evil in itself.” Behavior universally regarded as criminal, e.g., murder. Also called *malum in se*. Compare **mala prohibita**.

mala prohibita (MAL uh PRO HIB ih duh) “Prohibited evil.” Behavior that is criminal only because society defines it as such, e.g., gambling. Also called *malum prohibita*. Compare **mala in se**.

malfeasance Unlawful act. Often used to describe misconduct by public officials. Compare **misfeasance** and **nonfeasance**.

malice Intent to commit a wrongful act without just cause or excuse.

malice aforethought Mental state required to prove murder.

malicious prosecution Action instituted with intention of injuring defendant and without probable cause.

mandamus (man DAY mus) Writ issued by a court ordering a public official, another court, a corporation, public body or individual to perform an act.

mandate Judicial command or order directing an officer of the court to enforce judgment, sentence or decree.

mandatory sentence Sentence set by law, allowing for little or no discretion by the sentencing judge.

manslaughter Unlawful killing of another without intent to kill. May be voluntary, i.e., upon sudden impulse, e.g., a quarrel erupts into a fistfight in which a participant is killed; or involuntary, i.e., committed during commission of an unlawful act not ordinarily expected to result in great bodily harm or during commission of a lawful act without proper caution, e.g., driving an automobile at excessive speed, resulting in fatal collision. Compare **murder**.

master Official appointed by a court to assist with proceedings. Masters may take testimony, rule on pre-trial issues, compute interest, handle uncontested divorces, etc. Usually must present written report to court.

material evidence Evidence that is relevant and goes to substantiate issues in a dispute.

mediation Form of **alternative dispute resolution** in which parties bring their dispute to a neutral third party, who helps them agree on settlement. Nonbinding. Similar to **conciliation**.

memorial Abstract of a legal record. Also, written statement of facts presented to legislature or executive as a petition.

mens rea (menz REE uh) The state of mind of the defendant the prosecution must prove in order to establish criminal responsibility. See **elements of a crime**.

minor courts See **limited jurisdiction**.

Miranda rule Requirement that police advise a suspect in custody of constitutional rights before questioning him/her. Named after U.S. Supreme Court ruling in *Miranda v. Arizona*, 384 U.S. 436 (1966) establishing such requirements.

mischarge Erroneous jury instruction that could be grounds for verdict reversal.

misdemeanor Criminal offenses generally punishable by fine or limited local jail term, but not by imprisonment in penitentiary. Compare **felony**.

misfeasance Lawful act performed in wrongful manner. Compare **malfeasance** and **nonfeasance**.

misjoinder Erroneously joining parties in a lawsuit. Compare **joinder** and **nonjoinder**.

mistrial Trial terminated before verdict is reached, either because of some procedural error, serious misconduct during proceedings or **hung jury**.

mitigating circumstances Circumstances which do not constitute justification for committing an offense, but which may reduce degree of blame and help reduce sentence of individual convicted. Also known as extenuating circumstances. Compare **aggravating circumstances**.

mittimus (MIT ih mus) Written court order directing a jailer to receive and safely keep a person until ordered otherwise.

moot Having no practical significance. Usually refers to court's refusal to consider a case because issue involved no longer exists.

moral turpitude Immorality, depravity; conduct so wicked as to be shocking to the community's moral sense.

motion Application to a court or judge for a ruling or order.

motion to dismiss Request to dismiss a civil case because of settlement, withdrawal or a procedural defect. Compare **demurrer**.

multiplicity of actions Two or more separate litigations of the same issue against the same defendant.

Multistate Bar Examination (MBE) Multiple-choice bar exam given by every state's bar association. Its 200 questions are not state-specific and cover contracts, criminal law, constitutional law, real property, evidence and torts.

municipal court Court whose jurisdiction is confined to the city or community in which it is erected. Usually has summary jurisdiction over minor offenses and a limited number of misdemeanors. Occasionally also possesses limited civil jurisdiction. Pennsylvania has one municipal court, Philadelphia Municipal Court.

murder Unlawful killing of a human being with **malice aforethought**. First degree murder is premeditated, i.e., planned. Second degree murder is sudden, instantaneous intent to kill or to cause injury without caring whether injury kills or not. Pennsylvania and some other states also allow for third degree

murder, which is murder committed by a person engaged in commission of a felony. Compare **manslaughter**.

N

negligence Failure to use that degree of care which a reasonable person would use under the same circumstances. See also **comparative negligence** and **contributory negligence**.

next friend One acting without formal appointment as guardian, for benefit of minor or incompetent plaintiff and who is not party to the lawsuit.

no bill Grand jury's notation on written indictment indicating insufficient evidence was found to indict. Compare **true bill**.

no contest See **nolo contendere**.

no-contest clause Language in a will that a person who makes a legal challenge to the will's validity will be disinherited.

"no-fault" proceeding Civil case in which claim is adjudicated without finding of error or fault.

nol pros Abbreviation of **nolle prosequi**.

nolle prosequi (NAHL ee PROS eh KWEE) "I do not choose to prosecute." Decision by prosecutor or plaintiff not to go forward with an **action**. Called "nol pros" for short.

nolo contendere (NO LO con TEN deh ree) Criminal defendant's plea, whereby he/she accepts punishment without admission of guilt. Also called no contest.

nominal party One joined as a party or defendant in a lawsuit because the technical rules of pleading require his/her presence in the record.

non compos mentis (non COM pos MENT iss) Not of sound mind.

non obstante veredicto (non ob STANT ee ver eh DICK toh) "Notwithstanding the verdict." Verdict entered by judge contrary to jury's verdict.

non prosequitur (non preh SEK wit tur) Judgment entered when plaintiff, at any stage of proceedings, fails to prosecute his/her action. Called "non pros" for short.

non pros Abbreviation of **non prosequitur**.

nonfeasance Failure to act when duty required. Compare **malfeasance** and **misfeasance**.

nonjoinder Neglecting to add a party to a lawsuit who should be added. Compare **joinder** and **misjoinder**.

nonsuit Plaintiff's voluntary withdrawal of a suit without decision on merits or court's dismissal of a case because plaintiff has failed to make out a legal case or to bring forward sufficient evidence.

notary public Licensed public officer who has authority to certify documents, administer oaths, take acknowledgement and deposition and perform other specified functions, depending on the state.

notice Formal notification to a party that a civil lawsuit has been filed against him/her. Also, any form of notification of legal proceeding.

nugatory Useless; invalid.

nuisance Offensive, annoying, unpleasant or obnoxious thing or practice that interferes with use or enjoyment of a property.

nunc pro tunc "Now for then." Action applied to acts which should have been completed at an earlier date than actually were, with the earlier date listed as the completion date.

nuncupative will (nun KY00 puh tive) An oral will.

O

oath Solemn pledge to keep a promise or speak the truth.

obiter dictum (OH bih der DICK tum) "Something said in passing." Remarks or observations of a judge, made in passing during pronouncement of judicial opinion, but not necessary to the pronouncement. Often called dictum or dicta.

objection Process during a court proceeding whereby one party takes exception to something that has occurred or will occur and requests immediate ruling by judge.

"on his own recognizance" See **personal recognizance**.

one-day, one-trial jury service Method of jury selection in many jurisdictions which requires prospective jurors to serve for only one day if they are not chosen for a jury or for only the length of a trial if chosen.

onus probandi (OH nus pruh BAN die) **Burden of proof**. Often shortened to **onus**.

opening statement Statements made at the start of a trial by attorneys for each side, outlining each's legal position and the facts each intends to establish during the trial.

opinion Court's written decision of a case. A majority or plurality opinion expresses court's decision. A concurring opinion generally agrees with majority, but usually states different or additional reasons for reaching same conclusion. A dissenting opinion states opinion of judges who disagree with majority. *Per curiam* opinion is an unsigned opinion of an appellate court.

opinion evidence What a witness thinks, believes or infers regarding disputed facts. Generally admissible only when given by an **expert witness** unless opinion is based on matters common to lay persons.

oral argument Summary by attorneys before court (particularly appellate court) of positions regarding legal issue being litigated.

order Command, written or oral, from a court.

ordinance Law enacted by a municipality such as a county or city council.

orphans' court Court that oversees estates, adoptions, appointments of guardians. Also called probate court.

overrule Judge's decision not to allow an **objection**. Also, decision by higher court finding that lower court decision was in error.

overt act Act done to carry out or in furtherance of intention to commit a crime. Compare **actus reus**.

P

pain and suffering Physical and/or emotional distress compensable as an element of damage in **torts**.

pardon Form of **clemency** releasing one from the penalties of a criminal conviction.

parens patriae (PAH renz PATE ree eye) Doctrine under which the government protects the interests of a minor or incapacitated person.

parole Supervised, conditional release of a prisoner before expiration of his/her sentence.

party One who files a lawsuit or against whom a lawsuit is filed.

patent Government grant giving an inventor exclusive right to make or sell his/her invention for a term of years.

penal Of, relating to or involving punishment or penalties.

penal code Code of laws concerning crimes and offenses and their punishment.

pendente lite (pen DEN tee LYE tee) During the progress of a lawsuit; contingent on the outcome of the suit.

per curiam (per KYUR ee uhm) See **opinion**.

peremptory challenge (peh REMP teh ree) Challenge which may be used to reject a certain number of prospective jurors without giving a reason. Compare **challenge for cause**.

perjury Deliberately making a false or misleading statement under oath.

permanent injunction Court order requiring or forbidding an action, granted after final hearing has been held on its merits. (Does not necessarily last forever.) Compare **preliminary injunction**.

personal jurisdiction Adjudicative power of a court over an individual.

personal property Any movable physical property or intangible property which may be owned. Does not include real property such as land or rights in land.

personal recognizance Release of a defendant without bail upon promise to return to court as required. Also known as releasing one "on his own recognizance."

personal representative Person who administers legal affairs of another because of incapacity or death.

petit jury (PEH tee) Jury composed of six to twelve persons who hear evidence presented at a trial and determine the facts in dispute. Compare **grand jury**.

petition Written request to a court asking for a particular action to be taken.

petitioner See **plaintiff**.

physical custody See **custody**.

plaintiff Person, corporation, legal entity, etc., initiating a civil lawsuit. Also called complainant or petitioner.

plea Defendant's formal response to a criminal charge. Plea may be **guilty**, not guilty or **nolo contendere** (no contest).

plea bargaining Mutually satisfactory disposition of a case negotiated between accused and prosecutor. Usually defendant pleads guilty to lesser charge/s in exchange for reduced sentence or dismissal of other charges.

pleadings Written statements by parties to a lawsuit, setting forth or responding to allegations, claims, denials or defenses.

plenary action (PLEH nuh ry) Complete, formal hearing or trial on merits.

polling the jury Asking jurors individually after verdict has been announced whether they agree with verdict.

Post-Conviction Relief Act Process by which someone who has been convicted of a crime may request a court to vacate or correct a conviction or sentence.

pour-over will Will that leaves some or all estate assets to existing trust.

power of attorney Legal authorization for one person to act on behalf of another individual. See **attorney-in-fact**.

praecipe (PRESS ih pee) Writ commanding a person to do something or to show cause why he/she should not.

precedent Previously decided case which guides decisions of future cases. Compare **stare decisis**.

precept Writ issued by person of authority commanding a subordinate official to perform an act.

prejudice Preconceived bias. Judgment decided before facts are given.

prejudicial error See **reversible error**.

preliminary hearing Hearing at which judge determines whether evidence is sufficient against a person charged with a crime to warrant holding him/her for trial. Compare **arraignment** and **initial appearance**.

preliminary injunction Court order requiring or forbidding an action until a decision can

- be made whether to issue a **permanent injunction**. Issued only after both parties have had opportunity to be heard. Compare **temporary restraining order**.
- premeditation** Decision or plan to commit a crime.
- preponderance of evidence** Greater weight of evidence, a common standard of proof in civil cases. Jury is instructed to find for the party which has the stronger evidence, however slight that may be. Compare **clear and convincing evidence**.
- presentencing report** Report to sentencing judge containing background information about crime and defendant to assist judge in making his/her sentencing decision. Sometimes called sentencing report.
- presentment** Declaration or document issued by grand jury on its own initiative, making accusation. Compare **indictment**.
- presumption of innocence** Fundamental principle of American justice system that every individual is innocent of a crime until proven guilty in a court of law.
- presumption of law** Rule of law that courts and judges must draw a particular inference from a particular fact or evidence.
- pretermitted child** (PRE ter MITT ed) Child born after a will is executed, who is not provided for by the will. Most states have laws that provide for a share of the estate to go to such children.
- pre-trial conference** Informal meeting between judge and lawyers in a lawsuit to narrow issues, agree on what will be presented at trial and make final effort to settle case without trial.
- prima facie case** (PREE muh FAH sheh) Case that has minimum amount of evidence necessary to allow it to continue in the judicial process.
- prima facie evidence** Evidence sufficient to establish a fact or sustain a finding in favor of the side it supports unless rebutted.
- prior record** See **criminal history record information**.
- prior restraint** Restraint on speech or publication before it is spoken or published. Prohibited by constitution unless defamatory or obscene or creates a clear and present danger.
- privileged communication** Communication protected by law from publication. Includes certain communications between attorneys and clients, clergymen and confessors, doctors and patients, and husbands and wives as well as issues of national security and foreign policy and journalists protecting sources.
- pro bono publico** “For the public good.” When lawyers represent clients without a fee. Usually shortened to “pro bono.”
- pro hac vice** (pro hack VEE chay) “For this time only.” Usually refers to an attorney who is not licensed in a particular jurisdiction who has been granted permission to try a particular case in that jurisdiction.
- pro se** (pro see) An individual who represents himself/herself in court. Also called “in propria persona” or “pro persona.”
- probable cause** Sufficient legal reasons for allowing search and seizure or arrest of a person.
- probate** Process of proving a will is valid and should be carried out. Also refers more generally to law governing estates.
- probate court** See **orphans’ court**.
- probation** Alternative to imprisonment, allowing person found guilty of offense to stay in the community, usually under conditions and under supervision of a probation officer.
- procedural law** Law which prescribes the method of enforcing rights or obtaining redress for invasion of rights. Compare **substantive law**.
- proceeding** A legal action. Conducting judicial business before a court or judicial officer.
- process** Summons to appear in court or notification to a defendant that a suit has been filed against him/her.
- promulgate** To put (a law) into action or effect. To make known publicly.
- prosecutor** Attorney representing the government in a criminal case.
- protective custody** Confinement of an individual by law enforcement officials to protect that individual from a dangerous person or situation.

protective order Court order to protect a party or witness from further harassment, service of process or discovery by the opposing party.

prothonotary In Pennsylvania an officer elected or appointed to oversee court matters of a civil nature, including maintaining all official court documents and records. Compare **clerk of courts**.

proximate cause Act legally sufficient to result in liability. Also, act without which an action could not have occurred. Differs from **immediate cause**.

public defender Government lawyer who provides legal services for an individual accused of a crime, who cannot afford to pay.

public domain Government-owned land. Also, publications, inventions, etc., not protected by **copyright**.

punishment Penalty, such as a fine, imprisonment or probation, imposed on one who has broken the law. See also **death penalty** and **cruel and unusual punishment**.

punitive damages Damages awarded to a **plaintiff** over and above the actual damages, meant to punish defendant and thus deter future behavior of like nature.

purge To **exonerate** or cleanse from guilt.

Q

quash To vacate, void, nullify.

quid pro quo "Something for something." Fair return consideration; i.e., giving something of value in return for getting something of similar value.

quo warranto (quo wah RANT oh) Writ used to discover by what authority an individual holds or claims a public office, franchise or liberty.

R

rap sheet See **criminal history record information**.

ratio decidendi (RAY she oh DES ih DEN die) Principle or rule of law on which a court decision is based.

real evidence Physical evidence that plays a direct part in an incident in question, as opposed to oral testimony.

real property Land, anything growing on the land and anything erected on or attached to the land. Also called real estate.

reasonable doubt State of mind in which jurors cannot say they feel confident that an individual is **guilty** of crime charged. See **beyond a reasonable doubt**.

reasonable person Hypothetical person who sensibly exercises qualities of attention, knowledge, intelligence and judgment. Used as legal standard to determine negligence.

rebuttal Evidence which disproves evidence introduced by the opposing party.

recidivism (reh SID ih vizm) Relapse into former type of behavior, as when an individual relapses into criminal behavior. A habitual criminal is a recidivist.

recognizance See **personal recognizance**.

record Official documents, evidence, transcripts, etc., of proceedings in a case.

recovery To obtain judgment in one's favor. Also, to obtain damages or other relief in a lawsuit or other legal proceeding.

recusal Process by which a judge excuses him/herself from hearing a case.

recusation Plea by which defendant requests that judge hearing his/her trial excuse him/herself from case.

re-direct examination Opportunity to question witness after cross-examination regarding issues brought up during the cross-examination. Compare **rehabilitation**.

redress To set right; to remedy; to compensate.

referral Process by which a juvenile case is introduced to court, agency or program where needed services can be obtained.

referee Person appointed by a court to assist with certain proceedings, such as taking testimony.

rehabilitation Reexamining a witness whose credibility has suffered during cross-examination to restore that witness's credibility. Compare **re-direct examination**.

rehearing Another hearing of case by same court in which suit was originally heard.

rejoinder Defendant's answer to the plaintiff's reply.

relevant evidence Evidence that tends to prove or disprove a matter at issue.

relief See **remedy**.

remand To send a case back to the court where originally heard for further action. Also, to send an individual back into custody after a preliminary examination.

remedy Means by which right or privilege is enforced or violation of right or privilege is prevented, redressed or compensated. Also called relief.

remit To send a case back to a lower court.

remittitur (reh MID ih dur) Judge's reduction of damages awarded by jury.

removal Transfer of state case to federal court for trial.

replication Plaintiff's reply to defendant's plea, answer or counterclaim.

replevin (reh PLEV in) Action for recovery of a possession wrongfully taken.

reply Plaintiff's response to defendant's argument, counterclaim or answer. Plaintiff's second pleading; followed by defendant's rejoinder.

reprieve Temporary postponement of a sentence, particularly of a death sentence.

reprimand Disciplinary action against an attorney that declares his/her actions improper, but does not prevent him/her from practicing law. May be public or private.

respondent See **appellee**.

rest When one side finishes presenting evidence in a trial.

restitution Return of something to its rightful owner. Also, giving the equivalent for any loss, damage or injury.

restraining order Order prohibiting someone from harassing, threatening, contacting or even approaching another individual.

retainer Act of a client in hiring an attorney. Also denotes fee client pays when retaining attorney.

return Report to judge of action taken in executing a writ issued by judge, usually written on the back of the writ. Also, the action of returning the writ to court.

reverse Higher court setting aside lower court's decision.

reversible error Error sufficiently harmful to justify reversing judgment of lower court. Also called prejudicial error. Compare **harmless error**.

revocable trust (REV uh kuh b'l) Trust that grantor may change or revoke.

revoke To cancel or nullify a legal document.

right to counsel Guarantee in the Sixth Amendment of the U.S. Constitution of a criminal defendant's right to court-appointed counsel if the defendant cannot afford to hire counsel.

robbery Felonious taking of another's property in that person's presence by force or fear. Differs from **larceny**.

rule of court Rules governing how a given court operates.

rules of evidence Standards governing whether evidence is admissible.

S

sanction Penalty for failure to comply with rule, order or law.

scofflaw One who habitually ignores the law or does not answer court summonses.

satisfaction See **accord and satisfaction**.

search warrant Written order issued by a judge that permits a law enforcement officer to search a specific area for specific items.

secondary evidence See **best evidence**.

self-defense Use of force to protect one's self, family or property from harm or threatened harm by another.

self-incrimination, privilege against Right of people to refuse to give testimony against themselves. Guaranteed by Fifth Amendment to U.S. Constitution. Asserting right is often referred to as "taking the Fifth."

self-proving will Will whose validity does not have to be testified to in court by witnesses since the witnesses executed an **affidavit** reflecting proper execution of will prior to maker's death.

sentence Punishment inflicted on a person convicted of crime. See **concurrent sentences**,

- consecutive sentences, death penalty, house arrest, indeterminate sentence, mandatory sentence and suspended sentence.**
- sentencing guidelines** Set of guidelines introduced to ensure conformity in sentencing throughout Pennsylvania. Federal government and several other states also use.
- sentencing report** See **pre-sentencing report**.
- separation of witnesses** See **sequestration of witnesses**.
- sequestration** Keeping all jurors together during a trial to prevent them from being influenced by information received outside courtroom.
- sequestration of witnesses** Keeping all witnesses (except plaintiff and defendant) out of courtroom except for their time on the stand to prevent them from hearing testimony of other witnesses. Also called separation of witnesses.
- service** Delivery of legal document, such as **complaint, summons or subpoena**.
- set aside** To annul or negate a court order or judgment.
- sidebar** Conference between judge and lawyers, usually in courtroom, out of earshot of jury and spectators. Also called bench conference.
- slander** False and defamatory spoken words tending to harm another's reputation, business or means of livelihood. Compare **libel**.
- small claims court** Court that handles civil claims for small amounts of money. People often represent themselves rather than hire an attorney.
- sole custody** See **custody**.
- sovereign immunity** Doctrine that a government, either state or federal, is immune to lawsuits unless it gives its consent.
- special courts** See **limited jurisdiction**.
- specific performance** **Remedy** requiring person who has breached a contract to fulfill his/her part of the contract, as opposed to simply paying damages. Ordered when paying damages would be inadequate or inappropriate.
- spendthrift trust** Trust set up for benefit of someone whom grantor believes would be incapable of managing his/her own financial affairs, and to keep money out of hands of creditors.
- standard of proof** See **burden of proof**.
- standing** Legal right to bring a lawsuit.
- stare decisis** (STEHR ee dih SYE sis) Doctrine that courts will follow principles of law laid down in previous cases. Compare **precedent**.
- state's evidence** Testimony given by accomplice or participant in a crime, given under promise of immunity or reduced sentence, to convict others.
- status offenders** Youths who habitually engage in conduct not considered criminal if committed by an adult, but which cause charges to be brought in juvenile court and show minor is beyond parental control, e.g., being truant from school.
- status offense** Act declared to be an offense when committed by a juvenile, e.g., habitual truancy, running away from home, violating curfew.
- statute** Law enacted by legislative branch of government. Also called statutory law. Compare **common law**.
- statute of limitations** Timeframe within which a lawsuit must be brought or an individual charged with a crime. Differs for different types of cases/crimes or in different states.
- statutory construction** Process by which a court seeks to interpret legislation.
- statutory law** See **statute**.
- stay** Court order halting a judicial proceeding or the action of halting such proceeding.
- stenographer** See **court reporter**.
- stipulation** Agreement by attorneys on both sides of a case about some aspect of the lawsuit, e.g., to extend time to answer, to adjourn trial date.
- sua sponte** (SOO eh SPON tee) On one's own behalf. Voluntarily, without prompting or suggestion.
- sub judice** (sub JOO dih SEE) Before a court or judge; under judicial consideration.
- subpoena** (suh PEE nuh) Court order compelling a witness to appear and testify. Also, the act of ordering a witness to appear and testify.
- subpoena duces tecum** (suh PEE nuh DOO sess TEE kum) Court order commanding a witness to bring certain documents or records to court.

subrogation Substituting one person in place of another in asserting a lawful claim, demand or right.

substantive evidence Evidence presented to prove a fact in issue.

substantive law Law which creates, defines and regulates rights. Compare **procedural law**.

sui generis (SOO ee JEN er iss) Of its own kind or class; the only one of its kind.

sui juris (SOO ee JUR iss) Of his own right. Possessing full social and civil rights.

summary Quickly executed.

summary judgment Judgment made when there are no disputes of the facts of a case and one party is entitled to prevail as a matter of law.

summary offense In Pennsylvania a violation of law punishable by imprisonment for up to 90 days and/or a fine not exceeding \$300.

summary proceeding Nonjury proceeding that disposes of a case promptly and simply. Also called summary trial.

summation See **closing argument**.

summons Notice to a defendant that he/she has been sued and is required to appear in court. Also, notice requiring person receiving it to report for jury duty or as witness in a trial. As relates to potential jurors, also called **venire**.

sunset law Law that automatically expires at the end of a set period of time unless formally renewed.

sunshine laws Laws forbidding or restricting closed meetings of government bodies and providing for public access to records.

supersedeas (SOO per SEE dee uhss) Writ issued by appellate court to preserve the status quo pending review of a judgment or pending other exercise of its jurisdiction.

support trust Trust that instructs trustee to spend only as much as is needed for beneficiary's support.

suppress To forbid use of evidence at trial because it is improper or was improperly obtained. See **exclusionary rule**.

survivorship Another name for **joint tenancy**.

sustain Court order allowing an objection or motion to prevail.

suspended sentence Sentence postponed by order of the court. Also, decision of court to postpone pronouncement of sentence.

swindle To obtain money or property by fraud or deceit.

T

temporary restraining order Judge's order forbidding certain actions until a full hearing can be held to determine whether injunction should be issued. Often referred to as TRO. Compare **preliminary injunction**.

tenancy by the entirety See **joint tenancy**.

tenancy in common Form of legal co-ownership of property in which survivors, when one of the owners dies, do not have rights to decedent's shares of the property. Compare **joint tenancy**.

testamentary capacity Mental ability an individual must have to make a will.

testamentary trust Trust set up by a will. Compare **living trust**.

testimony Evidence given by witness under oath at trial or via affidavit or deposition.

theft See **larceny**.

third party Person, business or government agency, etc., not actively involved in a legal proceeding, agreement or transaction, but who is somehow involved.

third-party claim Action by a defendant that brings a third party into a lawsuit. Compare **intervention**.

tort Injury or wrong committed on a person or property of another for which remedy can be sought in civil court, except that which involves a contract.

tortfeasor One who commits a **tort**; a wrongdoer.

transcript Official record of all testimony and events that occur during a trial or hearing.

transfer hearing Hearing in juvenile court to determine whether jurisdiction over a juvenile case should remain in juvenile court or be transferred to adult court.

trial de novo A new trial.

TRO **Temporary restraining order**.

true bill **Indictment** by grand jury. Notation on indictment that charge should go to court. Compare **no bill**.

trust Legal device used to manage real or personal property, established by one person (grantor or settlor) for the benefit of another (**beneficiary**). A third person (**trustee**) or the **grantor** manages the trust.

trustee Person or institution that manages a trust.

turncoat witness Witness whose testimony was expected to be favorable, but who later becomes a hostile witness.

U

undue More than necessary; excessive.

undue prejudice Harmful bias that results when judge or jury are exposed to convincing but inadmissible evidence or evidence that so arouses emotions that clear, impartial consideration is lost.

unlawful detainer Detention of real property without consent of owner or other person entitled to its possession.

usury (YOO seh ree) Charging higher interest rate than law allows.

V

vacate To nullify, render void.

venire (veh NI ree; popularly pronounced veh NEER) Writ summoning persons to court to act as jurors. Also, a group of people summoned for jury duty.

venue (VEN YOO) Geographical area from which a jury is drawn, where a criminal trial is held and where an **action** is brought. Also, the geographical location in which the alleged actions that gave rise to the legal action occurred.

verdict Decision reached by a jury or judge on the facts presented at a trial.

victimless crime Crime considered to have no direct victims, usually because it involves consenting adults, e.g., drug possession.

voir dire (vwahr deer) Process of questioning potential jurors.

W

waiver Voluntarily giving up right.

waiver of immunity Means by which witness relinquishes right against self-incrimination, thereby making it possible for his/her testimony to be used against him/her in future proceedings.

warrant Writ directing or authorizing someone to do something; most commonly, a court order authorizing law enforcement officers to make an arrest or conduct a search. See also **bench warrant** and **search warrant**.

weight of evidence Persuasiveness of some evidence as compared to other.

white-collar crime Nonviolent crimes involving dishonest business practices, e.g., **fraud**, **embezzlement**, insider trading on the stock market.

will Legal document that sets forth how an individual wants his/her property disposed of when he/she dies.

willfully Intentionally, as distinguished from accidentally, carelessly or inadvertently, but not necessarily maliciously.

with prejudice Judge's decision in a case whereby any future action on the claim is barred in any court.

without prejudice Without loss of rights.

witness One who testifies to what he/she has seen, heard or otherwise experienced. See also **expert witness**, **hostile witness**, and **turncoat witness**.

work release Sentence under which defendant is imprisoned, but is released during day to work at a job approved by Department of Corrections or the court.

writ Judicial order directing a person to do something.

writ of certiorari See **certiorari**.

writ of execution Writ directing sheriff or other court officer to enforce a court judgment or decree.

AOPC