

THE COURTS

Title 210—APPELLATE PROCEDURE

PART II. INTERNAL OPERATING PROCEDURES [210 PA. CODE CH. 65]

Amendment to Superior Court Internal Operating Procedures

The Superior Court of Pennsylvania has amended procedures concerning wiretaps. This policy is reflected in the Superior Court Internal Operating Procedures with the adoption of 210 Pa. Code Sec. 65.59.

This change becomes effective September 3, 2002.

ERNEST GENNACCARO,
*Chief Staff Attorney to the
Superior Court of Pennsylvania*

Annex A

TITLE 210. APPELLATE PROCEDURE

PART II. INTERNAL OPERATING PROCEDURES

CHAPTER 65. INTERNAL OPERATING PROCEDURES OF THE SUPERIOR COURT

WIRETAPS

§ 65.59 Order: In General. Notice of Confidentiality.

Section 5710 of the Wiretapping and Electronic Surveillance Control Act, 18 Pa.C.S. § 5710 provides that upon consideration of the application, the Court may enter an ex parte order authorizing interception anywhere in the Commonwealth.

All proposed orders shall include, on the first page, the following notice of confidentiality to third parties:

WIRETAP CONFIDENTIALITY NOTICE

You have been served with an intercept order pursuant to Pennsylvania's Wiretapping and Electronic Surveillance Control Act, 18 Pa.C.S. §§ 5701—5781 (the "Wiretap Act").

In order to implement wiretaps and electronic surveillance authorized by intercept orders, the assistance of third parties, those outside of law enforcement, is often required. You have been made aware of an intercept order because your assistance is required to facilitate wiretapping or other surveillance in an on-going criminal investigation.

This is a very serious and highly confidential matter and must be treated with the utmost care and discretion. Except as specifically authorized under the Wiretap Act, IT IS A CRIME TO WILLFULLY USE OR DISCLOSE THE EXISTENCE OF AN INTERCEPT ORDER. SUCH USE OR DISCLOSURE IS PUNISHABLE BY IMPRISONMENT OF UP TO 2 YEARS, AND A FINE OF UP TO \$5,000.

The Wiretap Act Provides as follows:

§ 5719. Unlawful use or disclosure of existence of order concerning intercepted communication

Except as specifically authorized pursuant to this subchapter any person who willfully uses or discloses the existence of an order authorizing interception of a

wire, electronic or oral communication is guilty of a misdemeanor of the second degree.

(A misdemeanor of the second degree is punishable by imprisonment of up to two years, 18 Pa.C.S. § 1104, and a fine of up to \$5,000, id. § 1101.)

See also 18 Pa.C.S. §§ 5725, 5726 and 5717.

[Pa.B. Doc. No. 02-1474. Filed for public inspection August 23, 2002, 9:00 a.m.]

Title 234—RULES OF CRIMINAL PROCEDURE

[234 PA. CODE CH. 10]

Order Amending Rule 1013; No. 283 Criminal Pro- cedural Rules; Doc. No. 2

The Criminal Procedural Rules Committee has prepared a *Final Report* explaining the amendments to Rule of Criminal Procedure 1013 (Prompt Trial—Municipal Court). The amendments expand the time for trial in Philadelphia Municipal Court from within 120 days after the preliminary arraignment to 180 days. The *Final Report* follows the Court's Order.

Order

Per Curiam:

Now, this 8th day of August, 2002, upon the recommendation of the Criminal Procedural Rules Committee, the proposal having been submitted without publication in the interests of justice pursuant to Pa.R.J.A. 103(a)(3), and a *Final Report* to be published with this *Order*:

It Is Ordered pursuant to Article V, Section 10 of the Constitution of Pennsylvania that Rule of Criminal Procedure 1013 is amended as follows.

This *Order* shall be processed in accordance with Pa.R.J.A. 103(b), and shall be effective January 1, 2003.

Annex A

TITLE 234—RULES OF CRIMINAL PROCEDURE

CHAPTER 10. RULES OF CRIMINAL PROCEDURE FOR THE PHILADELPHIA MUNICIPAL COURT

Rule 1013. Prompt Trial—Municipal Court.

(A) (1) Trial in a Municipal Court case in which a preliminary arraignment is held after June 30, 1974, but before July 1, 1975, shall commence no later than 210 days from the date on which the preliminary arraignment is held.

(2) Trial in a Municipal Court case [in which a preliminary arraignment is held after June 30, 1975] shall commence no later than [120] 180 days from the date on which the preliminary arraignment is held.

(3) Trial in a Municipal Court case in which the defendant appears pursuant to a summons shall commence no later than [120] 180 days from the date on which the complaint is filed.

* * * * *

(C) (1)(a) At any time prior to the expiration of the period for commencement of trial, the attorney for the Commonwealth may apply to the Court orally or in writing for an order extending the time for commencement of trial. The defendant shall have the right to be heard on the Commonwealth's motion.

(b) If the motion is in writing, a copy shall be served upon the defendant through [his] the defendant's attorney, if any.

* * * * *

Official Note: Rule 6013 adopted June 28, 1974, effective prospectively as set forth in paragraphs (A)(1) and (A)(2) of this rule; amended July 1, 1980, effective August 1, 1980; amended October 22, 1981, effective January 1, 1982; the amendment to paragraph (D) as it regards exclusion of defense-requested continuances was specifically made effective as to continuances requested on or after January 1, 1982, and [new] paragraph (H), which provides the time for retrials, was specifically made effective as to retrials required by orders entered on or after January 1, 1982; amended September 3, 1993, effective January 1, 1994; renumbered Rule 1013 and amended March 1, 2000, effective April 1, 2001; **amended August 8, 2002, effective January 1, 2003.**

Committee Explanatory Reports:

* * * * *

Final Report explaining the August 8, 2002 amendments to paragraphs (A)(2) and (A)(3) expanding the time for trial from 120 days to 180 days published with the Court's Order at 32 Pa.B. 4124 (August 24, 2002).

FINAL REPORT¹

Amendments to Pa.R.Crim.P. 1013

**PHILADELPHIA MUNICIPAL COURT:
PROMPT TRIAL**

On August 8, 2002, effective January 1, 2003, upon the recommendation of the Criminal Procedural Rules Committee,² the Court amended Rule 1013 (Prompt Trial—Municipal Court). The amendments expand the time for trial in Philadelphia Municipal Court from 120 days to 180 days.

I. BACKGROUND

The issue of whether the Rule 1013 prompt trial provision should be expanded was raised by Municipal Court Administrative Judge Seamus Patrick McCaffery because of the substantial increase in the number of cases being filed in Municipal Court, and the time pressures for getting the cases disposed this increase is causing for the Court. He explained the number of incoming cases rose from 22,641 cases in 1996 to 32,861 cases in 1999, and that figure has remained fairly static through the beginning of 2002. During the same time period, the number of dispositions rose from 22,733 cases disposed in 1996 to 31,512 cases disposed in 1999.³ The time from the

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

² Because of the unique nature and limited jurisdiction of the Philadelphia Municipal Court, and the need to have input from individuals who are daily involved with Municipal Court, the Committee deviated from our normal full-Committee review of this issue, and convened an "Ad Hoc Committee" for the limited purpose of addressing the issue of the time for trial in Municipal Court. The "Ad Hoc Committee" included two Philadelphia Deputy Court Administrators, two Criminal Procedural Rules Committee members, and the Chiefs of the Municipal Court units of the Philadelphia Public Defender's office and the Philadelphia District Attorney's office, together with the Criminal Procedural Rules Committee's Staff.

³ This information was taken from the Municipal Court's 1999 Annual Report.

preliminary arraignment to the first trial listing is estimated to be 90 to 100 days.⁴

II. DISCUSSION

In considering Judge McCaffery's request, the members questioned 1) the necessity of a change, and 2) how much additional time would satisfactorily reduce the time pressures on the Municipal Court. Ultimately agreeing that there is a need for an expansion of the time limitations in the rule, the members agreed that an additional 60 days would be adequate to accomplish this change.

Unlike in the other judicial districts in which misdemeanor cases are mixed on the docket with felony cases in Common Pleas Court, Philadelphia has a two-tiered criminal court system in which there is a separate court (Municipal Court) to expeditiously process the less serious and less complicated misdemeanor cases.⁵ In addition, the Philadelphia court system has implemented innovations in how cases are processed that are having some impact on the numbers of cases in the system and the time to trial, but there are limitations such as the number of judges and courtrooms available for scheduling of cases. Finally, present Rule 1013 is case processing friendly, and forces the scheduling of cases within the time frames established in the rule.

Accordingly, in view of all of the above, and that (1) Municipal Court is processing a tremendously increased caseload compared to what existed in 1974 when the rule was adopted, and (2) since 1974, the Supreme Court has modified the time for trial required by Rule 600, thereby increasing the amount of time that all other judicial districts are provided to dispose of misdemeanor cases in a timely fashion, Rule 1013 has been amended by changing the 120-day time limit to 180 days in paragraphs (A)(2) and (A)(3).⁶

[Pa.B. Doc. No. 02-1475. Filed for public inspection August 23, 2002, 9:00 a.m.]

**Title 25—LOCAL
COURT RULES**

CHESTER COUNTY

**Amendment of Local Orphans' Court Rule L6.4A;
1502-9999**

Order

And Now, this 6th day of August, 2002, Rule L6.4A is hereby *Amended* to reflect the change in the dates of the call of the audit list for July and August. The new Rule L6.4A shall read as follows:

Rule L6.4A. Audits.

Audit List-When Called—The audit list will be called on the first Wednesday of every month except July and September and on the third Wednesday of September. There will be no audit list in July. Each audit

⁴The process in Municipal Court was described as follows: at the preliminary arraignment, the defendant is given a pretrial conference date that is approximately 45 days from the time of arrest. At the pretrial conference, it is the District Attorney's office's responsibility to turn over discovery and to see if a plea can be worked out. If there is no plea, the case gets listed for trial. This first trial listing in a trial room may take anywhere from another four to six weeks.

⁵The defendant has the right to appeal to the Philadelphia Common Pleas Court for a trial *de novo*. Pursuant to Rule 1013(C), the trial *de novo* must be conducted within 90 days after the notice of appeal is filed.

⁶In all other respects, Rule 1013 remains the same.

list shall include continued accounts and new accounts eligible for audit. No attorney need be present unless the attorney desires to file written objections or a claim.

This Rule is hereby *Adopted*, effective January 1, 2003.⁷

By the Court

PAULA FRANCISCO OTT,
Judge

[Pa.B. Doc. No. 02-1476. Filed for public inspection August 23, 2002, 9:00 a.m.]

WESTMORELAND COUNTY

Civil Rules W205.1 and W211; No. 3 of 2002

And Now This 5th day of August, 2002, *It Is Hereby Ordered* that Westmoreland County Rules of Civil Procedure W205.1 and W211 are hereby repealed and new rules of Civil Procedure W205.1 and W211 are adopted. The effective date of these changes is 30 days after publication in the *Pennsylvania Bulletin*.

By the Court

DANIEL J. ACKERMAN,
President Judge

Rule W205. 1 Filing of Motions and Petitions

(a) The trial judge assigned to a specific case will hear all matters relating to that case.

(b) Routine contested motions will be heard on the first and last Wednesday of each month at 10:00 a.m. The moving party shall furnish a copy of the motion or petition and any proposed order to every other party or attorney of record at least 4 days in advance of the day when the presentation is to occur. The motion or petition must be accompanied by a certification stating that notice has been given under this rule.

(c) Uncontested motions will be heard on the first and last Wednesday of each month at 10:00 a.m. or may be

presented at any time convenient to and prearranged with the court. Before a motion or petition is presented, the moving party shall furnish a copy of the motion or petition and any proposed order to every other party or attorney of record at least 4 days in advance of the day when the presentation is to occur. The motion or petition must be accompanied by a certification stating that notice has been given under this rule and that the matter is in fact uncontested. The moving party shall attach this certification together with a copy of the judicial assignment form when presenting an uncontested motion or petition to the chambers of the assigned judge as prearranged.

(d) Emergency motions on civil matters may be presented at any time convenient to and prearranged with the court. In emergency matters, the moving party must give telephone notice to every other party or attorney of record prior to presenting the motion or petition and shall, at the time of presentment of same, provide to the Court a certification of the notice provided.

(e) Motions or petitions to which all parties consent may be delivered to the chambers of the assigned judge at any time. The motion or petition must be accompanied by a certification stating that notice has been given under this rule.

(f) The filing of preliminary objections, motions for judgment on the pleadings, motions for summary judgment, the post-trial relief shall be in accordance with Westmoreland County Rule of Civil Procedure W227.2.

Rule W211. Oral Arguments

(a) The court administrator shall schedule all argument court matters with the exception of preliminary objections.

(b) A party may assert their right to oral argument as to preliminary objections by filing a motion with the court. To accomplish the prompt determination of preliminary objections where a motion for oral argument is not filed, the court will decide preliminary objections at the earliest date possible based upon briefs.

[Pa.B. Doc. No. 02-1477. Filed for public inspection August 23, 2002, 9:00 a.m.]

⁷Original Rule L6.4A was adopted October 25, 1993, effective January 1, 1994.