

THE COURTS

Title 234—RULES OF CRIMINAL PROCEDURE

[234 PA. CODE CHS. 1, 3, 5 AND 6]

Order Rescinding Rule 600, Adopting New Rule 600, Amending Rules 106, 542 and 543, and Approving the Revision of the Comment to Rules 312, 318 and 608 of the Rules of Criminal Procedure; No. 419 Criminal Procedural Rules Doc.

Order

Per Curiam

And Now, this 1st day of October, 2012, upon the recommendation of the Criminal Procedural Rules Committee; the proposal having been published before adoption at 37 Pa.B. 4170 (August 4, 2007), and in the *Atlantic Reporter* (Second Series Advance Sheets, Vol. 926), 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

(1) Pennsylvania Rule of Criminal Procedure 600 is rescinded;

(2) New Pennsylvania Rule of Criminal Procedure 600 is adopted;

(3) Pennsylvania Rules of Criminal Procedure 106, 542, and 543 are amended; and

(4) the revision of the Comment to Pennsylvania Rules of Criminal Procedure 312, 318, and 608 are approved, all in the following form. This *Order* shall be processed in accordance with Pa.R.J.A. No. 103(b), and shall be effective July 1, 2013.

Annex A

TITLE 234. RULES OF CRIMINAL PROCEDURE

CHAPTER 1. SCOPE OF RULES, CONSTRUCTION AND DEFINITIONS, LOCAL RULES

PART A. Business of the Courts

Rule 106. Continuances in Summary and Court Cases.

(A) The court or issuing authority may, in the interests of justice, grant a continuance, on its own motion, or on the motion of either party.

(B) When the matter is before an issuing authority, the issuing authority shall record on the transcript the identity of the moving party and the reasons for granting or denying the continuance.

(C) When the matter is in the court of common pleas, the judge shall on the record identify the moving party and state of record the reasons for granting or denying the continuance. **The judge also shall indicate on the record to which party the period of delay caused by the continuance shall be attributed and whether the time will be included in or excluded from the computation of the time within which trial must commence in accordance with Rule 600.**

[(C)] (D) A motion for continuance on behalf of the defendant shall be made not later than 48 hours before the time set for the [trial] proceeding. A later motion shall be entertained only when the opportunity therefor did not previously exist, or the defendant was not aware of the grounds for the motion, or the interests of justice require it.

(E) **When a continuance is granted, the notice of the new date, time, and location of the proceeding shall be served on the parties as provided in these rules.**

Comment

For the procedures for filing and service of court orders and notices in general, see Rule 114. For the procedures for service of the continuance of a preliminary hearing, see Rule 542(G)(2).

Official Note: Rule 301 adopted June 30, 1964, effective January 1, 1965; amended June 8, 1973, effective July 1, 1973; amended June 29, 1977 and November 22, 1977, effective as to cases in which the indictment or information is filed on or after January 1, 1978; renumbered Rule 106 and amended March 1, 2000, effective April 1, 2001; **amended October 1, 2012, effective July 1, 2013.**

Committee Explanatory Reports:

Final Report explaining the March 1, 2000 reorganization and renumbering of the rules published with the Court's Order at 30 Pa.B. [1477] 1478 (March 18, 2000).

Final Report explaining the July 1, 2012 amendments to paragraphs (B) and (C) concerning Rule 600 and paragraph (E) concerning service published with the Court's Order at 42 Pa.B. 6629 (October 20, 2012).

CHAPTER 3. ACCELERATED REHABILITATIVE DISPOSITION (ARD)

PART B. Court Cases

Rule 312. Hearing, Explanation of Program.

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Comment

Although acceptance into an ARD program is not intended to constitute a conviction under these rules, it may be statutorily construed as a conviction for purposes of computing sentences on subsequent convictions. *See, e.g., [Vehicle Code 3731(e)(2), added by 75 Pa.C.S. § 731(e)(2)] 75 Pa.C.S. § 3806(a).*

In addition to requesting that the defendant waive Rule 600 for the period of enrollment in the ARD program, the attorney for the Commonwealth may request that the defendant waive Rule 600 for the period of time spent in processing and considering the defendant's inclusion into the ARD program. See Rule 311.

Official Note: Rule 178 approved May 24, 1972; effective immediately; amended February 15, 1974, effective immediately; amended April 10, 1989, effective July 1, 1989; renumbered Rule 312 and Comment revised March 1, 2000, effective April 1, 2001; **Comment revised October 1, 2012, effective July 1, 2013.**

Committee Explanatory Reports:

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Final Report explaining the October 1, 2012 Comment revision concerning waiver of Rule 600 published with the Court's Order at 42 Pa.B. 6629 (October 20, 2012).

Rule 318. Procedure on Charge of Violation of Conditions.

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Comment

See Rules [600(D)(3)] 600(A)(2)(c) and 1013(I) and Comments for the time within which to commence trial following a termination order.

Official Note: Rule 184 approved May 24, 1972, effective immediately; amended September 3, 1993, effective January 1, 1994; renumbered Rule 318 and amended March 1, 2000, effective April 1, 2001; **Comment revised October 1, 2012, effective July 1, 2013.**

Committee Explanatory Reports:

Report explaining the September 3, 1993 amendments published with the Court's Order at 23 Pa.B. 4492 (September 25, 1993).

Final Report explaining the March 1, 2000 reorganization and renumbering of the rules published with the Court's Order at 30 Pa.B. [1477] 1478 (March 18, 2000).

Final Report explaining the October 1, 2012 Comment revision changing the Rule 600 reference published with the Court's Order at 42 Pa.B. 6629 (October 20, 2012).

CHAPTER 5. PRETRIAL PROCEDURES IN COURT CASES

PART D. Proceedings in Court Cases Before Issuing Authorities

Rule 542. Preliminary Hearing; Continuances.

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(G) CONTINUANCES

(1) The issuing authority may, for cause shown, grant a continuance and shall note on the transcript every continuance together with:

- (a) the grounds for granting each continuance;
- (b) the identity of the party requesting such continuance; and
- (c) the new date [and], time, and place for the preliminary hearing, and the reasons that the particular date was chosen.

When the preliminary hearing is conducted in the court of common pleas, the judge shall record the party to which the period of delay caused by the continuance shall be attributed and whether the time will be included in or excluded from the computation of the time within which trial must commence in accordance with Rule 600.

(2) The issuing authority shall give notice of the new date [and], time, and place for the preliminary hearing to the defendant, the defendant's attorney of record, if any, and the attorney for the Commonwealth.

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Official Note: Former Rule 141, previously Rule 120, adopted June 30, 1964, effective January 1, 1965; sus-

pending January 31, 1970, effective May 1, 1970; revised January 31, 1970, effective May 1, 1970; renumbered Rule 141 and amended September 18, 1973, effective January 1, 1974; amended June 30, 1975, effective July 30, 1975; amended October 21, 1977, effective January 1, 1978; paragraph (D) amended April 26, 1979, effective July 1, 1979; amended February 13, 1998, effective July 1, 1998; rescinded October 8, 1999, effective January 1, 2000. Former Rule 142, previously Rule 124, adopted June 30, 1964, effective January 1, 1965, suspended effective May 1, 1970; present rule adopted January 31, 1970, effective May 1, 1970; renumbered Rule 142 September 18, 1973, effective January 1, 1974; amended October 22, 1981, effective January 1, 1982; effective date extended to July 1, 1982; amended July 12, 1985, effective January 1, 1986, effective date extended to July 1, 1986; rescinded October 8, 1999, effective January 1, 2000. New Rule 141, combining former Rules 141 and 142, adopted October 8, 1999, effective January 1, 2000; renumbered Rule 542 and Comment revised March 1, 2000, effective April 1, 2001; amended August 24, 2004, effective August 1, 2005; amended March 9, 2006, effective September 1, 2006; amended May 1, 2007, effective September 4, 2007, and May 1, 2007 Order amended May 15, 2007; amended January 27, 2011, effective in 30 days; amended June 21, 2012, effective in 180 days; **amended October 1, 2012, effective July 1, 2013.**

Committee Explanatory Reports:

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Final Report explaining the October 1, 2012 amendments to paragraph (G)(1) concerning computation of time and (G)(2) concerning notice of continuance published with the Court's Order at 42 Pa.B. 6629 (October 20, 2012).

Rule 543. Disposition of Case at Preliminary Hearing.

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(D) In any case in which the defendant fails to appear for the preliminary hearing:

- (1) if the issuing authority finds that the defendant did not receive notice of the preliminary hearing by a summons served pursuant to Rule 511, a warrant of arrest shall be issued pursuant to Rule 509(2)(d).
- (2) If the issuing authority finds that there was good cause explaining the defendant's failure to appear, the issuing authority shall continue the preliminary hearing to a specific date and time, and shall give notice of the new date [and], time, and place as provided in Rule 542(G)(2). The issuing authority shall not issue a bench warrant.
- (3) If the issuing authority finds that the defendant's absence is without good cause and after notice, the absence shall be deemed a waiver by the defendant of the right to be present at any further proceedings before the issuing authority.

(a) In these cases, the issuing authority shall proceed with the case in the same manner as though the defendant were present.

(b) If the preliminary hearing is conducted and the case held for court, the issuing authority shall

(i) give the defendant notice by first class mail of the results of the preliminary hearing and that a bench warrant has been requested; and

(ii) pursuant to Rule 547, transmit the transcript to the clerk of courts with a request that a bench warrant be issued by the court of common pleas and, if the defendant has not complied with the fingerprint order issued pursuant to Rule 510(C)(2), with a notice to the court of common pleas of the defendant's noncompliance.

(c) If the preliminary hearing is conducted and the case is dismissed, the issuing authority shall give the defendant notice by first class mail of the results of the preliminary hearing.

(d) If a continuance is granted, the issuing authority shall give the parties notice of the new date [**and**], time, **and place** as provided in Rule 542(G)(2), and may issue a bench warrant. If a bench warrant is issued and the warrant remains unserved for the continuation of the preliminary hearing, the issuing authority shall vacate the bench warrant. The case shall proceed as provided in paragraphs (D)(3)(b) or (c).

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Official Note: Original Rule 123, adopted June 30, 1964, effective January 1, 1965, suspended January 31, 1970, effective May 1, 1970. New Rule 123 adopted January 31, 1970, effective May 1, 1970; renumbered Rule 143 September 18, 1973, effective January 1, 1974; amended January 28, 1983, effective July 1, 1983; amended August 9, 1994, effective January 1, 1995; amended September 13, 1995, effective January 1, 1996. The January 1, 1996 effective date extended to April 1, 1996; the April 1, 1996 effective date extended to July 1, 1996; renumbered Rule 142 October 8, 1999, effective January 1, 2000; renumbered Rule 543 and amended March 1, 2000, effective April 1, 2001; amended August 24, 2004, effective August 1, 2005; amended December 30, 2005, effective August 1, 2006; amended March 9, 2006, effective September 1, 2006; amended May 1, 2007, effective September 4, 2007, and May 1, 2007 Order amended May 15, 2007; amended July 10, 2008, effective February 1, 2009; amended February 12, 2010, effective April 1, 2010; amended January 27, 2011, effective in 30 days; Comment revised July 31, 2012, effective November 1, 2012; **amended October 1, 2012, effective July 1, 2013.**

Committee Explanatory Reports:

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Final Report explaining the October 1, 2012 amendments to paragraphs (D)(2) and (D)(3)(d) adding "place" to "date and time" for preliminary hearing notices published with the Court's Order at 42 Pa.B. 6629 (October 20, 2012).

CHAPTER 6. TRIAL PROCEDURES IN COURT CASES

PART A. General Provisions

Rule 600. [**Prompt Trial**] (Rescinded).

[(A)(1) Trial in a court case in which a written complaint is filed against the defendant after June 30, 1973 but before July 1, 1974 shall commence no later than 270 days from the date on which the complaint is filed.

(2) Trial in a court case in which a written complaint is filed against the defendant, when the defendant is incarcerated on that case, shall commence no later than 180 days from the date on which the complaint is filed.

(3) Trial in a court case in which a written complaint is filed against the defendant, when the defendant is at liberty on bail, shall commence no later than 365 days from the date on which the complaint is filed.

(4) Trial in a court case that is transferred from the juvenile court to the trial or criminal division shall commence in accordance with the provision set out in paragraphs (A)(2) and (A)(3) except that the time is to run from the date of filing the transfer order.

(B) For the purpose of this rule, trial shall be deemed to commence on the date the trial judge calls the case to trial, or the defendant tenders a plea of guilty or *nolo contendere*.

(C) In determining the period for commencement of trial, there shall be excluded therefrom:

(1) the period of time between the filing of the written complaint and the defendant's arrest, provided that the defendant could not be apprehended because his or her whereabouts were unknown and could not be determined by due diligence;

(2) any period of time for which the defendant expressly waives Rule 600;

(3) such period of delay at any stage of the proceedings as results from:

(a) the unavailability of the defendant or the defendant's attorney;

(b) any continuance granted at the request of the defendant or the defendant's attorney.

(D)(1) When a trial court has granted a new trial and no appeal has been perfected, the new trial shall commence within 120 days after the date of the order granting a new trial, if the defendant is incarcerated on that case. If the defendant has been released on bail, trial shall commence within 365 days of the trial court's order.

(2) When an appellate court has remanded a case to the trial court, if the defendant is incarcerated on that case, trial shall commence within 120 days after the date of remand as it appears in the appellate court docket. If the defendant has been released on bail, trial shall commence within 365 days after the date of remand.

(3) When a trial court has ordered that a defendant's participation in the ARD program be terminated pursuant to Rule 184, trial shall commence within 120 days of the termination order if the defendant is incarcerated on that case. If the defendant has been released on bail, trial shall commence within 365 days of the termination order.

(E) No defendant shall be held in pre-trial incarceration on a given case for a period exceeding 180 days excluding time described in paragraph (C) above. Any defendant held in excess of 180 days is entitled upon petition to immediate release on nominal bail.

(F) Nothing in this rule shall be construed to modify any time limit contained in any statute of limitations.

(G) For defendants on bail after the expiration of 365 days, at any time before trial, the defendant or the defendant's attorney may apply to the court for an order dismissing the charges with prejudice on

the ground that this rule has been violated. A copy of such motion shall be served upon the attorney for the Commonwealth, who shall also have the right to be heard thereon.

If the court, upon hearing, shall determine that the Commonwealth exercised due diligence and that the circumstances occasioning the postponement were beyond the control of the Commonwealth, the motion to dismiss shall be denied and the case shall be listed for trial on a date certain. If, on any successive listing of the case, the Commonwealth is not prepared to proceed to trial on the date fixed, the court shall determine whether the Commonwealth exercised due diligence in attempting to be prepared to proceed to trial. If, at any time, it is determined that the Commonwealth did not exercise due diligence, the court shall dismiss the charges and discharge the defendant.

In the event the case is dismissed pursuant to this paragraph, the court shall promptly prepare a report of continuances by the Commonwealth, and the reasons therefor, which prevented the case from coming to trial as required by this rule. Such report shall be certified by the president judge or administrative judge, shall be made part of the public record of the case, and shall be sent to the Court Administrator of Pennsylvania within 20 days of the order of discharge.

Comment

Rule 600 was adopted in 1973 pursuant to *Commonwealth v. Hamilton*, 297 A.2d 127 (Pa. 1972).

The time limits of this rule were amended on December 31, 1987, effective immediately. See *Commonwealth v. Palmer*, 558 A.2d 882 (Pa. Super. 1989).

In addition to amending the time limits of the rule, the Court deleted the provisions concerning Commonwealth petitions to extend the time for commencement of trial. See Rule 600(E) and

Paragraph (A)(2) requires that the Commonwealth bring a defendant to trial within 180 days from the filing of the complaint if the defendant is incarcerated on the charges. Under paragraph (E), subject to the exclusions provided in paragraph (C), a defendant who has been incarcerated on the charges pretrial for more than 180 days is entitled, upon petition, to immediate release on nominal bail.

If a defendant is at liberty on bail on the charges, paragraph (A)(3) requires that the Commonwealth bring the defendant to trial within 365 days from the filing of a complaint. Under paragraph (G), after 365 days and at any time before trial, a defendant released on bail or the defendant's counsel may apply to the court for an order dismissing the charges with prejudice on the ground that this rule has been violated. A copy of the motion must be served on the attorney for the Commonwealth, who has a right under this rule to be heard on the motion. If the court, upon hearing, determines that the Commonwealth exercised due diligence and that the circumstances causing the delay in the commencement of trial were beyond the Commonwealth's control, the court must deny the motion and list the case for trial on a date certain. If the court determines that the Commonwealth did not

exercise due diligence, the court must dismiss the charges with prejudice and discharge the defendant.

When calculating the number of days set forth herein, see the Statutory Construction Act, 1 Pa.C.S. § 1908.

Pursuant to this rule, it is intended that "complaint" also includes special documents used in lieu of a complaint to initiate criminal proceedings in extraordinary circumstances such as criminal proceedings instituted by a medical examiner or coroner. See *Commonwealth v. Lopinson*, 234 A.2d 552 (Pa. 1967); *Commonwealth v. Smouse*, 594 A.2d 666 (Pa. Super. 1991).

A trial commences when the trial judge determines that the parties are present and directs them to proceed to *voir dire* or to opening argument, or to the hearing of any motions which had been reserved for the time of trial, or to the taking of testimony, or to some other such first step in the trial. It is not intended that preliminary calendar calls should constitute commencement of a trial. Concerning the hearing of motions reserved for the time of trial, see *Jones v. Commonwealth*, 434 A.2d 1197 (Pa. 1981).

For purposes of determining the time for commencement of trial, paragraph (C) contains the periods which must be excluded from that calculation. For periods of delay that result from the filing and litigation of omnibus pretrial motions for relief or other motions, see *Commonwealth v. Hill* and *Commonwealth v. Cornell*, 736 A.2d 578 (Pa. 1999).

Under paragraph (C)(3)(a), in addition to any other circumstances precluding the availability of the defendant or the defendant's attorney, the defendant should be deemed unavailable for the period of time during which the defendant contested extradition, or a responding jurisdiction delayed or refused to grant extradition; or during which the defendant was physically incapacitated or mentally incompetent to proceed; or during which the defendant was absent under compulsory process requiring his or her appearance elsewhere in connection with other judicial proceedings.

The provisions enumerating the excludable periods contained in paragraph (C) apply to the periods for commencing a trial under paragraph (D).

Paragraphs (D)(1) and (2) provide the time limits for commencement of trial when a trial court has granted a new trial and no appeal has been perfected, or when an appellate court has remanded a case to the trial court, for whatever reason. Under paragraph (D)(1), a trial must commence within 120 days of the trial court order granting a new trial, unless the defendant has been released on bail, in which event the trial must commence within 365 days.

The withdrawal of, rejection of, or successful challenge to a guilty plea should be considered the granting of a new trial for purposes of this rule. Paragraph (D)(1) also applies to the period for commencing a new trial following the declaration of a mistrial.

Under paragraph (D)(2), when an appellate court has remanded a case to the trial court, for whatever reason, trial must commence within 120 days

after the remand, unless the defendant has been released on bail, in which event trial must commence within 365 days after the remand. The date of remand is the date as it appears in the appellate court docket. When remand of the record is stayed, the period for commencement of trial does not begin to run until the record is remanded as provided in this rule.

Although a defendant's removal from the ARD program does not result in a "new trial" under paragraph (D)(3), termination of the defendant's ARD program pursuant to Rule 318 commences a new trial period for the purpose of this rule.

When a judge grants a continuance requested by the defendant, trial should be rescheduled for a date certain consistent with the continuance request and the court's business, and the entire period of such continuance may be excluded under paragraph (C).

When admitted to nominal bail pursuant to this rule, the defendant must execute a bail bond. See Rules 525 and 526.

In addition to requesting that the defendant waive Rule 600 for the period of enrollment in the ARD program (see Rule 312, paragraph (3)), the attorney for the Commonwealth may request that the defendant waive Rule 600 for the period of time spent in processing and considering the defendant's inclusion into the ARD program.]

Official Note: Rule [600] 1100 adopted June 8, 1973, effective prospectively as set forth in paragraphs (A)(1) and (A)(2) of this rule; paragraph (E) amended December 9, 1974, effective immediately; paragraph (E) re-amended June 28, 1976, effective July 1, 1976; amended October 22, 1981, effective January 1, 1982. (The amendment to paragraph (C)(3)(b) excluding defense-requested continuances was specifically made effective as to continuances requested on or after January 1, 1982.) Amended December 31, 1987, effective immediately; amended September 30, 1988, effective immediately; amended September 3, 1993, effective January 1, 1994; Comment revised September 13, 1995, effective January 1, 1996. The January 1, 1996 effective date extended to April 1, 1996; the April 1, 1996 effective date extended to July 1, 1996; renumbered Rule 600 and amended March 1, 2000, effective April 1, 2001; Comment revised April 20, 2000, effective July 1, 2000; **rescinded October 1, 2012, effective July 1, 2013, and replaced by new Rule 600.**

Committee Explanatory Reports:

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Final Report explaining the March 1, 2000 reorganization and renumbering of the rules published with the Court's Order at 30 Pa.B. [1477] 1478 (March 18, 2000).

Final Report explaining the April 20, 2000 Comment revision concerning *Commonwealth v. Hill* and *Commonwealth v. Cornell*,] published with the Court's Order at 30 Pa.B. 2219 (May 6, 2000).

Final Report explaining the October 1, 2012 rescission of current Rule 600 published at 42 Pa.B. 6629 (October 20, 2012).

(*Editor's Note:* The following rule is new and printed in regular type to enhance readability.)

Rule 600. Prompt Trial.

(A) COMMENCEMENT OF TRIAL; TIME FOR TRIAL

(1) For the purpose of this rule, trial shall be deemed to commence on the date the trial judge calls the case to trial, or the defendant tenders a plea of guilty or *nolo contendere*.

(2) Trial shall commence within the following time periods.

(a) Trial in a court case in which a written complaint is filed against the defendant shall commence within 365 days from the date on which the complaint is filed.

(b) Trial in a court case that is transferred from the juvenile court to the trial or criminal division shall commence within 365 days from the date on which the transfer order is filed.

(c) When a trial court has ordered that a defendant's participation in the ARD program be terminated pursuant to Rule 318, trial shall commence within 365 days from the date on which the termination order is filed.

(d) When a trial court has granted a new trial and no appeal has been perfected, the new trial shall commence within 365 days from the date on which the trial court's order is filed.

(e) When an appellate court has remanded a case to the trial court, the new trial shall commence within 365 days from the date of the written notice from the appellate court to the parties that the record was remanded.

(B) PRETRIAL INCARCERATION

Except in cases in which the defendant is not entitled to release on bail as provided by law, no defendant shall be held in pretrial incarceration in excess of

(1) 180 days from the date on which the complaint is filed; or

(2) 180 days from the date on which the order is filed transferring a court case from the juvenile court to the trial or criminal division; or

(3) 180 days from the date on which the order is filed terminating a defendant's participation in the ARD program pursuant to Rule 318; or

(4) 120 days from the date on which the order of the trial court is filed granting a new trial when no appeal has been perfected; or

(5) 120 days from the date of the written notice from the appellate court to the parties that the record was remanded.

(C) COMPUTATION OF TIME

(1) For purposes of paragraph (A), periods of delay at any stage of the proceedings caused by the Commonwealth when the Commonwealth has failed to exercise due diligence shall be included in the computation of the time within which trial must commence. Any other periods of delay shall be excluded from the computation.

(2) For purposes of paragraph (B), only periods of delay caused by the defendant shall be excluded from the computation of the length of time of any pretrial incarceration. Any other periods of delay shall be included in the computation.

(3)(a) When a judge or issuing authority grants or denies a continuance:

(i) the issuing authority shall record the identity of the party requesting the continuance and the reasons for granting or denying the continuance; and

(ii) the judge shall record the identity of the party requesting the continuance and the reasons for granting or denying the continuance. The judge also shall record to which party the period of delay caused by the continuance shall be attributed, and whether the time will be included in or excluded from the computation of the time within which trial must commence in accordance with this rule.

(b) The determination of the judge or issuing authority is subject to review as provided in paragraph (D)(3).

(D) REMEDIES

(1) When a defendant has not been brought to trial within the time periods set forth in paragraph (A), at any time before trial, the defendant's attorney, or the defendant if unrepresented, may file a written motion requesting that the charges be dismissed with prejudice on the ground that this rule has been violated. A copy of the motion shall be served on the attorney for the Commonwealth concurrently with filing. The judge shall conduct a hearing on the motion.

(2) Except in cases in which the defendant is not entitled to release on bail as provided by law, when a defendant is held in pretrial incarceration beyond the time set forth in paragraph (B), at any time before trial, the defendant's attorney, or the defendant if unrepresented, may file a written motion requesting that the defendant be released immediately on nominal bail subject to any nonmonetary conditions of bail imposed by the court as permitted by law. A copy of the motion shall be served on the attorney for the Commonwealth concurrently with filing. The judge shall conduct a hearing on the motion.

(3) Any requests for review of the determination in paragraph (C)(3) shall be raised in a motion or answer filed pursuant to paragraph (D)(1) or paragraph (D)(2).

(E) Nothing in this rule shall be construed to modify any time limit contained in any statute of limitations.

Comment

Rule 600 was adopted in 1973 as Rule 1100 pursuant to *Commonwealth v. Hamilton*, 449 Pa. 297, 297 A.2d 127 (1972), and provided, *inter alia*, that trials be held within 180 days of the filing of the complaint. The Court in *Hamilton* and subsequent cases explained that, by fixing the maximum time limit within which to try individuals accused of crime, the rule is intended to protect the right of criminal defendants to a speedy trial, protect society's right to effective prosecution of criminal cases, and help eliminate the backlog in criminal cases in the courts of Pennsylvania. See, e.g., *Commonwealth v. Dixon*, 589 Pa. 28, 907 A.2d 468 (2006); *Commonwealth v. Genovese*, 493 Pa. 65, 425 A.2d 367 (1981).

The time limits of this rule were expanded on December 31, 1987, effective immediately, to provide that trials must be held within 365 days of the filing of the complaint. The 1987 amendments also provided that a defendant who has been held in pretrial incarceration longer than 180 days must be released on nominal bail, and deleted the provisions concerning Commonwealth petitions to extend the time for commencement of trial.

In 2012, former Rule 600 was rescinded and new Rule 600 adopted to reorganize and clarify the provisions of the rule in view of the long line of cases that have construed the rule. The new rule incorporates from former Rule 600 the provisions concerning the commencement of trial and the requirement of bringing a defendant to trial within 365 days of specified events, new paragraph (A), and the 120-day or 180-day time limits on

pretrial incarceration, new paragraph (B). New paragraph (C), concerning computation of time and continuances, and new paragraph (D), concerning remedies, have been modified to clarify the procedures and reflect changes in law.

When calculating the number of days set forth herein, see the Statutory Construction Act, 1 Pa.C.S. § 1908.

COMMENCEMENT OF TRIAL; TIME FOR TRIAL

Paragraph (A) addresses both the commencement of trial and the 365-day time for trial. A trial commences when the trial judge determines that the parties are present and directs them to proceed to *voir dire* or to opening argument, or to the hearing of any motions that had been reserved for the time of trial, or to the taking of testimony, or to some other such first step in the trial. See, e.g., *Commonwealth v. Kluska*, 484 Pa. 508, 399 A.2d 681 (1979); *Commonwealth v. Lamonna*, 473 Pa. 248, 373 A.2d 1355 (1977). It is not intended that preliminary calendar calls should constitute commencement of a trial. Concerning the hearing of motions reserved for the time of trial, see *Jones v. Commonwealth*, 495 Pa. 490, 434 A.2d 1197 (1981).

The general rule is that trial must commence within 365 days from the date on which the complaint is filed. Pursuant to this rule, it is intended that "complaint" also includes special documents used in lieu of a complaint to initiate criminal proceedings in extraordinary circumstances such as criminal proceedings instituted by a medical examiner or coroner. See *Commonwealth v. Lopinson*, 427 Pa. 284, 234 A.2d 552 (1967), *vacated on other grounds*, 392 U.S. 647 (1968); *Commonwealth v. Smouse*, 406 Pa.Super. 369, 594 A.2d 666 (1991).

In cases in which the Commonwealth files a criminal complaint, withdraws that complaint, and files a second complaint, the Commonwealth will be afforded the benefit of the date of the filing of the second complaint for purposes of calculating the time for trial when the withdrawal and re-filing of charges are necessitated by factors beyond its control, the Commonwealth has exercised due diligence, and the re-filing is not an attempt to circumvent the time limitation of Rule 600. See *Commonwealth v. Meadius*, 582 Pa. 174, 870 A.2d 802 (2005).

The withdrawal of, rejection of, or successful challenge to a guilty plea should be considered the granting of a new trial for purposes of paragraph (A)(2)(d) of this rule. Paragraph (A)(2)(d) also applies to the period for commencing a new trial following the declaration of a mistrial.

The date of filing court orders for purposes of paragraphs (A)(2) and B is the date of receipt of the order in the clerk of court's office. See the third paragraph of the Comment to Rule 114 (Orders and Court Notices; Filing; Service; and Docket Entries).

When an appellate court has remanded a case to the trial court for a new trial, for purposes of computing the time for trial under paragraph (A)(2)(e) or the length of time of pretrial incarceration for purposes of paragraph (B)(5), the date of the remand is the date of the prothonotary's notice to the parties that the record was remanded. See Pa.R.A.P. 2572(e) concerning the requirement that the prothonotary of the appellate court give the parties written notice of the date on which the record was remanded.

COMPUTATION OF TIME

For purposes of determining the time within which trial must be commenced pursuant to paragraph (A), paragraph (C)(1) makes it clear that any delay in the commencement of trial that is not attributable to the Commonwealth when the Commonwealth has exercised due diligence must be excluded from the computation of time. Thus, the inquiry for a judge in determining whether there is a violation of the time periods in paragraph (A) is whether the delay is caused solely by the Commonwealth when the Commonwealth has failed to exercise due diligence. See, e.g., *Commonwealth v. Dixon*, 589 Pa. 28, 907 A.2d 468 (2006); *Commonwealth v. Matis*, 551 Pa. 220, 710 A.2d 12 (1998). If the delay occurred as the result of circumstances beyond the Commonwealth's control and despite its due diligence, the time is excluded. See, e.g., *Commonwealth v. Browne*, 526 Pa. 83, 584 A.2d 902 (1990); *Commonwealth v. Genovese*, 493 Pa. 65, 425 A.2d 367 (1981). In determining whether the Commonwealth has exercised due diligence, the courts have explained that "[d]ue diligence is fact-specific, to be determined case-by-case; it does not require perfect vigilance and punctilious care, but merely a showing the Commonwealth has put forth a reasonable effort." See, e.g., *Commonwealth v. Selenski*, 606 Pa 51, 61, 994 A.2d 1083, 1089 (Pa. 2010) (citing *Commonwealth v. Hill* and *Commonwealth v. Cornell*, 558 Pa. 238, 256, 736 A.2d 578, 588 (1999)).

Delay in the time for trial that is attributable to the judiciary may be excluded from the computation of time. See, e.g., *Commonwealth v. Crowley*, 502 Pa. 393, 466 A.2d 1009 (1983). However, when the delay attributable to the court is so egregious that a constitutional right has been impaired, the court cannot be excused for postponing the defendant's trial and the delay will not be excluded. See *Commonwealth v. Africa*, 524 Pa. 118, 569 A.2d 920 (1990).

When the defendant or the defense has been instrumental in causing the delay, the period of delay will be excluded from computation of time. See, e.g., *Commonwealth v. Matis*, *supra*; *Commonwealth v. Brightwell*, 486 Pa. 401, 406 A.2d 503 (1979) (plurality opinion). For purposes of paragraph (C)(1) and paragraph (C)(2), the following periods of time, that were previously enumerated in the text of former Rule 600(C), are examples of periods of delay caused by the defendant. This time must be excluded from the computations in paragraphs (C)(1) and (C)(2):

(1) the period of time between the filing of the written complaint and the defendant's arrest, provided that the defendant could not be apprehended because his or her whereabouts were unknown and could not be determined by due diligence;

(2) any period of time for which the defendant expressly waives Rule 600;

(3) such period of delay at any stage of the proceedings as results from either the unavailability of the defendant or the defendant's attorney or any continuance granted at the request of the defendant or the defendant's attorney.

In addition to any other circumstances precluding the availability of the defendant or the defendant's attorney, the defendant should be deemed unavailable for the period of time during which the defendant contested extradition, or a responding jurisdiction delayed or refused to grant extradition; or during which the defendant was physically incapacitated or mentally incompetent to proceed; or during which the defendant was absent under

compulsory process requiring his or her appearance elsewhere in connection with other judicial proceedings.

For periods of delay that result from the filing and litigation of omnibus pretrial motions for relief or other motions, see *Commonwealth v. Hill* and *Commonwealth v. Cornell*, 558 Pa. 238, 736 A.2d 578 (1999) (the mere filing of a pretrial motion does not automatically render defendant unavailable; only unavailable if delay in commencement of trial is caused by filing pretrial motion).

For purposes of determining the length of time a defendant has been held in pretrial incarceration pursuant to paragraph (B), only the periods of delay attributable to the defense are to be excluded from the computation. See *Commonwealth v. Dixon*, 589 Pa. 28, 907 A.2d 468 (2006).

Paragraph (C)(3) and Rules 106 (Continuances in Summary and Court Cases) and 542 (Preliminary Hearing; Continuances) require the judge to indicate on the record whether the time is excludable whenever he or she grants a continuance.

When a judge grants a continuance, trial should be rescheduled for a date certain consistent with the continuance request and the court's business. See, e.g., *Commonwealth v. Crowley*, *supra*.

REMEDIES

Paragraph (D)(1) requires that any defendant, whether incarcerated or released on bail, not brought to trial within the time periods in paragraph (A) at any time before trial may move to have the charges dismissed on the ground that this rule has been violated. See *Commonwealth v. Solano*, 588 Pa. 716, 906 A.2d 1180 (2006).

When a case is dismissed for violation of this rule, the dismissal is "with prejudice," and the Commonwealth's only recourse is to file either a motion for reconsideration or an appeal.

Paragraph (D)(2) sets forth the remedy should a defendant be held in pretrial incarceration beyond the time periods in paragraph (B). Defendants who would not be released on bail based on Article I, Section 14 of the Pennsylvania Constitution are not eligible for release under paragraph (D)(2) of this rule. See, e.g., *Commonwealth v. Sloan*, 589 Pa. 15, 27, n.10, 907 A.2d 460, 467, n.10 (2006); *Commonwealth v. Jones*, 899 A.2d 353 (Pa. Super. 2006). Article I, Section 14 of the Pennsylvania Constitution provides, *inter alia*, that "[a]ll prisoners shall be bailable by sufficient sureties, unless for capital offenses or for offenses for which the maximum sentence is life imprisonment or unless no condition or combination of conditions other than imprisonment will reasonably assure the safety of any person and the community when the proof is evident or presumption great."

Except in cases in which bail is not available pursuant to Article I, Section 14 of the Pennsylvania Constitution, the defendant must be released on nominal bail. Imposition of nominal bail includes in the appropriate case the imposition of nonmonetary conditions of release. See *Commonwealth v. Sloan*, *supra*. See also Rules 524, 526, and 527 concerning types and conditions of release on bail.

When admitted to nominal bail pursuant to this rule, the defendant must execute a bail bond. See Rules 525 and 526.

Paragraph (D)(3) makes it clear that requests for review of the determination concerning continuances

must be raised in a motion for dismissal, paragraph (D)(1), or in a motion for release, paragraph (D)(2), or in an answer.

For the procedures concerning motions and answers, and the filing and service of motions and answers, see Rules 575 and 576. For the procedures following the filing of a motion, see Rule 577.

Official Note: Rule 1100 adopted June 8, 1973, effective prospectively as set forth in paragraphs (A)(1) and (A)(2) of this rule; paragraph (E) amended December 9, 1974, effective immediately; paragraph (E) re-amended June 28, 1976, effective July 1, 1976; amended October 22, 1981, effective January 1, 1982. (The amendment to paragraph (C)(3)(b) excluding defense-requested continuances was specifically made effective as to continuances requested on or after January 1, 1982.) Amended December 31, 1987, effective immediately; amended September 30, 1988, effective immediately; amended September 3, 1993, effective January 1, 1994; Comment revised September 13, 1995, effective January 1, 1996. The January 1, 1996 effective date extended to April 1, 1996; the April 1, 1996 effective date extended to July 1, 1996; renumbered Rule 600 and amended March 1, 2000, effective April 1, 2001; Comment revised April 20, 2000, effective July 1, 2000; rescinded October 1, 2012, effective July 1, 2013. New Rule 600 adopted October 1, 2012, effective July 1, 2013.

Committee Explanatory Reports:

Report explaining the September 3, 1993 amendments published with the Court's Order at 23 Pa.B. 4492 (September 25, 1993).

Final Report explaining the September 13, 1995 Comment revision published with Court's Order at 25 Pa.B. 4116 (September 30, 1995).

Final Report explaining the March 1, 2000 reorganization and renumbering of the rules published with the Court's Order at 30 Pa.B. 1478 (March 18, 2000).

Final Report explaining the April 20, 2000 Comment revision concerning *Commonwealth v. Hill* and *Commonwealth v. Cornell* published with the Court's Order at 30 Pa.B. 2219 (May 6, 2000).

Final Report explaining the October 1, 2012 rescission of current Rule 600 and the provisions of new Rule 600 published with the Court's Order at 42 Pa.B. 6629 (October 20, 2012).

Rule 608. Motion for Judgment of Acquittal After Discharge of Jury.

* * * * *

Comment

* * * * *

For the commencement of trial when the trial judge denies the motion or when the motion is denied by operation of law, see Rule [600(D)] 600(A).

Official Note: Former Rule 1125 adopted January 24, 1968, effective August 1, 1968; amended June 29, 1977 and November 22, 1977, effective as to cases in which the indictment or information is filed on or after January 1, 1978; rescinded July 1, 1980, effective August 1, 1980, and not replaced. Present Rule 1125 adopted March 22, 1993, effective as to cases in which trial commences on or after January 1, 1994; renumbered Rule 608 and amended March 1, 2000, effective April 1, 2001; **Comment revised October 1, 2012, effective July 1, 2013.**

Committee Explanatory Reports:

Final Report explaining the provisions of the new rule published with the Court's Order at 23 Pa.B. 1699 (April 10, 1993).

Final Report explaining the March 1, 2000 reorganization and renumbering of the rules published with the Court's Order at 30 Pa.B. [1477] 1478 (March 18, 2000).

Final Report explaining the October 1, 2012 Comment revision changing the Rule 600 reference published with the Court's Order at 42 Pa.B. 6629 (October 20, 2012).

FINAL REPORT¹

Rescission of Pa.R.Crim.P. 600; adoption of new Pa.R.Crim.P. 600; amendments to Pa.Rs.Crim.P. 106, 542, 543; and revisions of the Comments to Pa.Rs.Crim.P. 312, 318, 608

Prompt Trial

On October 1, 2012, effective July 1, 2013, upon the recommendation of the Criminal Procedural Rules Committee, the Supreme Court rescinded Rule of Criminal Procedure 600; adopted new Rule of Criminal Procedure 600; amended Rules of Criminal Procedure 106, 542, and 543; and approved the revisions of the Comments to Pennsylvania Rules of Criminal Procedure 312, 318, and 608. In new Rule 600, the substantive provisions of the current rule have been reorganized and the various issues that have been addressed in the numerous Rule 600 cases since Rule 600, previously Rule 1100, was amended in 1987 have been incorporated. The amendments to the other rules are correlative to the substantive changes to Rule 600.

I. New Rule 600 and Correlative Changes

A. Introduction

The Committee, acting on the Supreme Court's referral in footnote 7 in *Commonwealth v. Solano*, 588 Pa. 716, 906 A.2d 1180 (2006), that stated:

Given the uncertainty that has arisen over the years since the drafting of the original speedy trial rule pursuant to our directive in *Hamilton*,² particularly with respect to our speedy trial rule's application to capital cases, we deem it proper to again refer the matter to our Criminal Procedural Rules Committee for further study and recommendation,

reviewed the case law that has been decided since the Court's 1987 amendment of then-Rule 1100 (now Rule 600) providing for the 365-day limit for the time for trial and the 180-day limit on pretrial incarceration without trial. The majority of the cases address three issues. As suggested by the Court in *Solano, supra.*, one area that has generated a good deal of case law has to do with the application of the rule to capital cases. Another area concerns the calculation of the time for trial, and how any delay—what is characterized in the case law as “excludable” time, “excusable” time, and “extendable” time—is attributed to the parties and court. The last area concerns the time limitations on pretrial incarceration and the intent of the nominal bail provisions.

Following an extensive review of the case law and the provisions of former Rule 600, the Committee agreed that, for the most part, the substantive provisions of the rule addressing the 365-day time for trial, the 180-day

¹ The Committee's 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 *Commonwealth v. Hamilton*, 449 Pa. 297, 297 A.2d 127 (1972).

limit on pretrial incarceration without trial, and the remedies of release and dismissal for violation of the rule should be retained. At the same time, the Committee concluded some changes in the rule are necessary to resolve the issues that repeatedly arise in the case law. In addition, it was agreed that the provisions of former Rule 600 should be reorganized so the new rule flows in a more orderly manner.

B. Discussion

1. New Rule 600

New Rule 600 is divided into sections identified with captions. The new sections are set forth in new Rule 600 in the following order:

(1) the provisions addressing the commencement of trial and the time for trial, new Rule 600(A) (Commencement of Trial; Time for Trial);³

(2) the provisions addressing the pretrial incarceration time limits, new Rule 600(B) (Pretrial Incarceration);⁴

(3) the provisions addressing the computation of time for trial and the time limitations on pretrial incarceration, new Rule 600(C) (Computation of Time);⁵

(4) the provisions providing the remedies, new Rule 600(D) (Remedies);⁶ and

(5) the statute of limitations provision, new Rule 600(E).⁷

The Comment also would be reorganized into comparable sections with the same captions.

Paragraph (A)—Commencement of Trial; Time for Trial

As part of the reorganization of the provisions in former Rule 600, former paragraph (B), that provides:

(1) For the purpose of this rule, trial shall be deemed to commence on the date the trial judge calls the case to trial, or the defendant tenders a plea of guilty or *nolo contendere*,

has been moved without change to new paragraph (A)(1).

The five paragraphs enumerating the 365-day time for trial found in former Rule 600(A)(3), (A)(4), (D)(1), (D)(2), and (D)(3) are set out as new paragraph (A)(2)(a)—(e).⁸ The rule makes more sense with the “time for trial” provisions in former Rule 600(A)(3) and (A)(4) and the “time for a new trial” provisions in former Rule 600(D)(1), (D)(2), and (D)(3) combined in one paragraph because the “time for the trial” in all five scenarios is 365 days from a triggering event.

In addition to incorporating the five “time for trial” provisions into new paragraph (A)(2), some of the wording concerning the date used to compute the time for trial has been modified. In former Rule 600, following the initiation of proceedings, the date used for the computation of time was the date on which the complaint is filed. In all other cases under the rule, the date that was used for the computation of the time for trial was described as “the date of the order,” “the date of filing of the order;” or “the date of service of the order.” Agreeing that the rule would be clearer if the same wording is used, the Committee reviewed Rule 114 (Orders And Court Notices: Filing;

Service; And Docket Entries) noting that Rule 114 requires a docket entry of three dates: date on the order; date of receipt of the order in clerk’s office, which is the date the order is filed; and date of service of the order. The Committee concluded Rule 600 would be clearer if the terminology conforms to the provisions of Rule 114. Accordingly, except for remands from the appellate court discussed below, all references to the time that the calculation begins to run (“the date of the order,” “the date of filing of the order;” or “the date of service of the order”) have been changed to “the date the order is filed.” A cross-reference to Rule 114 has been added as the fifth paragraph of the “Commencement of Trial; Time for Trial” section of the Comment.

For remands from an appellate court, new paragraph (A)(2)(e), the Rule 600 language has been modified to conform to the language in paragraph (e) of Rule of Appellate Procedure 2572 (Time for Remand of Record). The time would run from the date of the written notice to the parties of the remand of the record. A cross-reference to Rule of Appellate Procedure 2572(e) has been added as the sixth paragraph of the “Commencement of Trial; Time for Trial” section of the Comment. In all other respects, the 365-day time provisions in former Rule 600(A)(3), (4), (B), and (D) remain the same in new Rule 600(A).

Paragraph (B)—Pretrial Incarceration

Former Rule 600(A)(2), (A)(4), and (D) established time limits on a defendant’s incarceration without a trial. As part of the reorganization of former Rule 600, the Committee agreed that the pretrial incarceration time limits in former Rule 600(A)(2), (A)(4), (D)(1), (D)(2), and (D)(3) should be set forth in one section. Accordingly, these paragraphs are set out as new paragraph (B).

The Committee discussed the pretrial incarceration time limits in the former rule. The members concluded that the 180-day time limits that apply when a complaint is filed or when a transfer order in a juvenile case is filed and the 120-day time limits that apply when a new trial is granted by a trial judge or an appellate court should be retained in the new rule. However, the members concluded there is no reason the time limit on pretrial incarceration in ARD cases should be different from the 180-day time limit when a complaint is filed. Accordingly, the 120-day time limit in ARD cases when the defendant’s participation in an ARD program has been terminated in former Rule 600 has been changed to 180 days in new paragraph (B)(3).

New paragraph (B) also includes, as the introductory clause, a provision that recognizes the line of cases that have held the pretrial incarceration time limits do not apply when a defendant is not entitled to release on bail. *See, e.g., Commonwealth v. Jones*, 899 A.2d 353 (Pa.Super. 2006). The constitutional law and case law relative to this exception are elaborated in the seventh paragraph of the “Remedies” section of the Comment.

Paragraph (C)—Computation of Time

Paragraphs (C)(1) and (C)(2)

The provisions of former Rule 600 that have generated the majority of the appellate cases construing former Rule 600 are (1) paragraph (C) that addressed the time that is to be excluded from the determination of the period for commencement of trial, and (2) paragraph (G) that addressed court and other delay that has been called “excusable” time in some cases. Because there are many causes for delay that impact the computation of the time within which trial must commence, and classification of delay continues to be addressed in the case law, how to

³ The provisions of this section are derived from former Rule 600(A) and (D).

⁴ The provisions of this section are derived from former Rule 600(A), (D), and (E).

⁵ The provisions of this section are derived from former Rule 600(C) and (G).

⁶ The provisions of this section are derived from former Rule 600(E) and (F).

⁷ The provisions of this section are the same as former Rule 600(F).

⁸ Former Rule 600(A)(1) concerning the special time for trial for those cases tried between June 30, 1973 and July 1, 1974, the 270-day time for trial provision, has been deleted as no longer necessary. For the same reason, the reference to *Commonwealth v. Palmer*, 558 A.2d 882 (Pa. Super.) 1989) in the second paragraph of the former Rule 600 Comment has been deleted.

clarify these provisions of the rule in a manner consistent with the case law that would aid the bench and bar was a challenge for the Committee. The Committee reasoned that much of the confusion about the computation of time would be eliminated with a clearer statement concerning how the time should be computed in the text of the rule and examples of causes for delay and how these are computed set forth in the Comment.

The Committee began its analysis of the computation process by conceptualizing the days that count when making the computations for the commencement of trial in terms of a calendar. When the time clock starts to run, as the case proceeds, the days on the calendar are removed. When there is a delay in the case, if the delay is caused by the Commonwealth and the Commonwealth has failed to exercise due diligence, the pages continue to come off the calendar. *See, e.g., Commonwealth v. Matis*, 551 Pa. 220, 710 A.2d 12 (1998). The pages on the calendar are not taken off during the time for all other delays in the case. In other words, as set forth in new paragraph (C)(1):

(1) For purposes of paragraph (A), periods of delay at any stage of the proceedings⁹ caused by the Commonwealth when the Commonwealth has failed to exercise due diligence shall be included in the computation of the time within which trial must commence. Any other periods of delay shall be excluded from the computation.

The computation of time when calculating the time that a defendant has been incarcerated without a trial for Rule 600 purposes was addressed by the Supreme Court in *Commonwealth v. Dixon*, 589 Pa. 28, 907 A.2d 468 (2006). The Court held that, in computing the time of pretrial incarceration, only delay attributable to the defendant (“excludable” time) counts. The Committee incorporated this “rule” concerning the computation of the length of time of pretrial incarceration in new paragraph (C)(2) as follows:

(2) For purposes of paragraph (B), only periods of delay caused by the defendant shall be excluded from the computation of the length of time of any pretrial incarceration. Any other periods of delay shall be included in the computation.

The “Computation of Time” section in the Comment provides a lengthy discussion elaborating on the provisions in new Rule 600(C), including the process for determining how the computing is done and what to consider, with citations to several of the relevant cases concerning computation of time. This section of the Comment also includes the provisions concerning “excludable time” that previously were set forth in Rule 600(C), along with an elaboration about the other types of delay that have been addressed in case law and citations to relevant case law.

In drafting this portion of the Comment, the Committee recognized that to try to mention every case would be a daunting task and make for an unwieldy Comment. Furthermore, because the computation of the time in the case law is on a case-by-case basis, the list of scenarios from the cases to date is extensive. In view of these considerations, the Committee was selective in the cases included in this section of the Comment.

However, because of the concerns about the determination of “due diligence” in the Rule 600 context that were

⁹ “At any stage of the proceedings” was added by the Committee after publication in response to some of the publication comments that indicated some confusion about when and what type of delay would impact the Rule 600 calculations.

raised after publication of the proposal¹⁰, the new Rule 600 Comment has been revised to add a cross-reference to the language in *Commonwealth v. Selenski*, 994 A.2d 1083, 1089 (Pa. 2010) and *Commonwealth v. Hill* and *Commonwealth v. Cornell*, 558 Pa. 238, 256, 736 A.2d 578, 588 (1999) that elaborates on what is meant by “due diligence.” The new language explains:

In determining whether the Commonwealth has exercised due diligence, the courts have explained that “due diligence is a fact-specific concept that must be determined on a case-by-case basis,” and “due diligence does not require perfect vigilance and punctilious care, but rather a showing by the Commonwealth that a reasonable effort has been put forth.” *Id.* at *Selenski* A.2d 1089 and *Hill* A.2d 588.

Some of the publication responses suggested the Committee’s elaboration in the Comment concerning (1) the use of “excusable time” in explaining types of delay, especially delay caused by courts; (2) use of Superior Court cases to support provisions of the rule; and (3) the Commonwealth’s obligations concerning delay either was incorrect or confusing. Responding to these publication responses and to make the new rule be as clear as possible, this section of the Comment has been significantly modified from the version that was published. The provisions concerning delay by the Commonwealth, the courts, and the defendant are set forth in separate paragraphs and the term “excusable” delay has been removed from the discussion. Additionally, the paragraph concerning court delay explains that court delay may or may not be excluded and cites to the relevant case law. Finally, whenever possible, Supreme Court cases are used to support a premise in the Comment.

Paragraph (C)(3)

One of the problems inherent under former Rule 600 concerns the difficulty the trial judge has reconstructing what took place during the life of the case when a Rule 600 violation has been alleged in order to comply with former Rule 600(G) and to determine if the defendant is entitled to a remedy. The Committee agreed this issue needed to be addressed in the new rule.

The members initially reasoned if the judge or issuing authority¹¹ is required at the time a continuance is granted to state on the record whether the time is includable or excludable under Rule 600, there will be fewer problems down the line with calculating the times and properly attributing any periods of delay. On reconsideration, the members of the Committee who are judges observed, and the other members agreed, that, realistically, the issuing authorities’ determination whether the delay caused by granting a continuance of a preliminary hearing is excludable or includable is not going to bind the common pleas court judge when making a Rule 600 determination. Furthermore, although having the issuing authority indicate his or her opinion about whether the delay caused by granting a continuance of a preliminary hearing is excludable or includable and to whom the delay is attributable may be helpful, ordinarily, the common pleas court judge is going to review the reasons given for the continuance and who requested the continuance in making the Rule 600 determination.

The Committee also noted that Rules 106(B) and 542(G) currently require the issuing authority to include

¹⁰ The correspondents raising these concerns opined that demonstrating that law enforcement is exercising due diligence in trying to find the defendants often is difficult because what is “due diligence” varies from court to court and judge to judge.

¹¹ The Committee uses both “judge” and “issuing authority” in paragraph (C)(3) because continuances granted at the preliminary hearing stage, which ordinarily occurs before a member of the minor judiciary, will affect the Rule 600 calculation.

on the transcript the identity of the party requesting the continuance and the reasons for granting or denying the continuance. These existing requirements in Rules 106 and 542 requiring the issuing authorities to make notations concerning the party requesting the continuance and the reasons for granting the continuance is sufficient to provide the common pleas court judge with the relevant information about the continuance for subsequent Rule 600 determinations.

In view of these considerations, new paragraph (C) has been modified from the version published. Paragraph (C)(3)(a)(i) requires, at the time a continuance is granted or denied, that the judge or issuing authority indicate on the record to which party the period of delay caused by the continuance is attributed. In addition, paragraph (C)(3)(a)(ii) requires the judge to record to which party the period of delay caused by the continuance is attributable and whether the time is included in or excluded from the computation of the time within which trial must commence.

The published version of the “Computation of Time” section of the Comment included a brief elaboration about the requirements on the judge and issuing authority with regard to continuances. After reviewing the publication responses, cross-references to Rules 106 (Continuances in Summary and Court Cases) and 542 (Preliminary Hearing; Continuances), that also are being amended to conform with the new provisions of Rule 600, have been added to make it clear that Rule 600(C)(3), Rule 106, and Rule 542(D) govern Rule 600 continuances.

The last paragraph of the “Computation of Time” section of the Comment explains that when a judge grants a continuance, the trial should be rescheduled for a date certain consistent with the continuance request and the court’s business. A citation to *Commonwealth v. Crowley*, 502 Pa. 393, 466 A.2d 1009 (1983), is included in the Comment to emphasize this proposition.

Paragraph (D)—Remedies

Former Rule 600(E) provided that “any defendant held in excess of 180 days is entitled upon petition to immediate release on nominal bail.” Former Rule 600(G) provided for the dismissal of the charges and discharge of the defendant after the expiration of 365 days if the court determines that the Commonwealth did not exercise due diligence. As part of the reorganization of Rule 600, these two sections have been moved into new paragraph (D), the “Remedies” section.

The application of the dismissal provisions in former Rule 600(G) to cases in which the defendant is not “on bail after the expiration of 365 days” has generated a great deal of confusion. This issue has now been put to rest by *Commonwealth v. Solano*, 588 Pa. 716, 906 A.2d 1180 (2006), making it clear that the Rule 600 dismissal provisions apply to all cases, not just cases in which the defendant is released on bail. The provisions in new paragraph (D)(1), that for the most part incorporate the provisions in the first two paragraphs of former Rule 600(G), reflect this holding, and a cross-reference to *Solano* has been added as the first paragraph of the “Remedies” section of the Comment.

The release provisions in former Rule 600(E) also have generated a good deal of confusion and interpretive case law. Specific issues include (1) whether the nominal bail provision is intended to apply to cases in which the defendant is not entitled to release on bail and (2) whether the nominal bail provision is subject to nonmonetary conditions of release as provided in Rule 527 (Nonmonetary Conditions of Release on Bail).

Article I, Section 14 of the Pennsylvania Constitution provides, *inter alia*, that “all prisoners shall be bailable by sufficient sureties, unless for capital offenses or for offenses for which the maximum sentence is life imprisonment or unless no condition or combination of conditions other than imprisonment will reasonably assure the safety of any person and the community when the proof is evident or presumption great.” The appellate courts, as exemplified by *Commonwealth v. Jones*, 899 A.2d 353 (Pa. Super. 2006), have made it clear that when a defendant is not granted release on bail under the provisions of Article I, Section 14, the defendant also is not eligible for release under Rule 600.

The second issue concerning nonmonetary conditions of release also has been resolved in case law. In *Commonwealth v. Sloan*, 589 Pa. 15, 907 A.2d 460 (2006), the Court held that a defendant’s release on nominal bail pursuant to Rule 600 may be subject to nonmonetary conditions of release such as electronic monitoring or reporting requirements.

New paragraph (D)(2) incorporates these constructions of the nominal bail provision by clarifying in the text of the new rule that the release provisions do not apply when a defendant is not entitled to release and that nominal bail is subject to non-monetary conditions of release on bail. Some of the relevant case law and the relevant bail rules are referenced in the “Remedies” section of the Comment.

In addition to the changes to former Rule 600(E) and (G) discussed above, the provisions concerning motions in former Rule 600(G) have been modified in new paragraph (D)(1) and added to new paragraph (D)(2) to be consistent with other Criminal Rules concerning motions. The paragraph provides that any request for relief must be in the form of a written motion filed by the defendant’s attorney, or the defendant if unrepresented, with service on the attorney for the Commonwealth concurrent with filing, and requires the judge to conduct a hearing on the motion. A cross-reference to the relevant motion rules, Rules 575, 576, and 577, has been added as the last paragraph of the “Remedies” section of the Comment.¹²

A major issue raised in the publication responses concerned the part of the proposal that addressed continuances and the requirement that the judge or issuing authority make determinations concerning Rule 600 at the time of a continuance. The Committee agreed, in view of the publication responses, that new Rule 600 needed to make it clear that the decisions made by the judge or issuing authority concerning continuances pursuant to paragraphs (C)(3)(a)(i) and (C)(3)(a)(ii) are reviewable at the hearing on a motion for release on nominal bail or the motion to dismiss. This subsequent opportunity for the judge to review the earlier decision provides both sides with the opportunity to produce evidence that may not have been available at the time of the continuance request. New paragraph (D)(3) requires that any requests for review of the judge’s or issuing authority’s determinations in new paragraph (C)(3)(b) must be in the form of a written motion or answer filed pursuant to new paragraphs (D)(1) or (D)(2). This requirement is emphasized in the last paragraph of the Comment.

Another area of confusion reflected in the publication responses concerned the Committee’s suggestion that it is unnecessary to retain “with prejudice” in the text of the

¹² In addition to the motions provisions of Rule 575(A) that apply to Rule 600 challenges, the provisions for answers in Rule 575(B) also apply.

rule, and to move the “with prejudice” discussion to the Comment. The Committee explained in the published Report:

The first sentence of current paragraph (G) provides that the defendant “may apply to the court for an order dismissing the charges with prejudice.” The Committee questioned what is meant by “with prejudice” and why the term is necessary in Rule 600. The Court in *Commonwealth v. Hamilton*, 449 Pa. 297, 297 A.2d 127 (1972), was clear that it thought the dismissal had to end the case, otherwise the purpose of the rule would be emasculated. Based on this decision, the Committee does not think it is necessary to retain “with prejudice” in the text of the rule. In the alternative, we are proposing a Comment provision that explains when a case is dismissed for violation of this rule, the dismissal is “with prejudice.” The Comment also notes that the options available to the Commonwealth to challenge a dismissal are a motion for reconsideration to the trial court and an appeal to the Superior Court.

In view of the confusion and concerns about the impact of this proposed change reflected in the publication responses, the “with prejudice” language has been returned to paragraph (D)(1), and the Comment provision (second paragraph of “Remedies” section) has been retained to provide further clarification of the intent of the language.

The last post-publication issue concerning the proposed text of new Rule 600 addressed by the Committee was raised by some common pleas court judges who questioned the need for the former Rule 600(G) provisions that required:

the court to promptly prepare a report of continuances by the Commonwealth, and the reasons therefor, which prevented the case from coming to trial as required by the rule. Such report shall be certified by the president judge or administrative judge, shall be made part of the public record of the case, and shall be sent to the Court Administrator of Pennsylvania within 20 days of the order of discharge.¹³

The judges suggested that the report is unnecessary because the trial judge’s order dismissing a case based on Rule 600 contains the information that the report would contain, and because the Rule 600 data is now on the Common Pleas Case Management System (CPCMS). They also pointed out that having the president judge’s certification does not serve any purpose since the trial judge will have made a determination by way of an order of dismissal, which is of record.

In view of these judges’ comments, the Committee inquired of the AOPC about how these reports are used. We learned that the paper copies of the Rule 600(G) reports are mailed to the Philadelphia office of the AOPC. The reports are filed by the AOPC by year, but there are no other records of the reports made. Rarely, if ever, has anyone asked to look at these reports. In addition, we were advised that there are very few Rule 600(G) reports filed with AOPC. Beginning in 2006, after all the counties had come on-line with CPCMS, the data for Rule 600 dismissals in common pleas courts have been collected on CPCMS.¹⁴ Although CPCMS collects the dismissal data, it does not record the Rule 600(G) reports. In addition,

¹³ The provision requiring the report and certification was added by the Court to Rule 600 (then-Rule 1100) September 30, 1988 (Order No. 141 Criminal Procedural Rules Docket No. 2).

¹⁴ We were advised that, as with the Rule 600(G) reports filed with the AOPC, the Rule 600 dismissal information on the CPCMS rarely is requested.

when the CPCMS was designed, the system did not include a standardized Rule 600(G) form for the report, so there is no uniform form of report.

In view of the information the Committee received from the AOPC concerning the Rule 600(G) reports and the CPCMS information gathering function, and the provisions in new Rule 600 and in Rule 106 requiring that a record be made of (1) the reasons for granting or denying a continuance, (2) to whom the delay caused by the continuance is attributable, and (3) whether the time of the continuance delay is includable or excludable, the conclusion was that the provisions in former Rule 600(G) that the judges prepare reports of continuances attributable to the Commonwealth and the president judges certify the report is no longer necessary and, therefore, have been deleted from new Rule 600.

Paragraph (E)—Statute of Limitations

The provision in former Rule 600(F) that “nothing in this rule shall be construed to modify any time limit contained in any statute of limitations” has been retained without change in the new rule as new paragraph (E).

New Rule 600 Comment

Many of the explanatory provisions in the former Rule 600 Comment have been carried over into the new Rule 600 Comment. The new Comment has been reorganized to conform to the changes to the text of the new rule, including the addition of captions correlative to the captions in new Rule 600. In addition to the new provisions in the Comment discussed above, the following discussion provides a brief overview of the provisions in the new Rule 600 Comment.¹⁵

The first paragraph of the Comment elaborating on the purpose of Rule 600 as enumerated by the Court in *Hamilton* and subsequent cases has been modified and the history of Rule 600 expanded to provide more clearly the background of Rule 600.

The third paragraph of the new Comment provides a brief summary of the changes being proposed for new Rule 600. After reviewing the publication responses, to provide a clearer history of Rule 600, the Committee agreed to further clarify which provisions from former Rule 600 have been retained in the new rule and what changes have been made.

Commencement of Trial; Time for Trial

The first paragraph in the “Commencement of Trial; Time for Trial” section of the Comment explains new paragraph (A) and incorporates the provisions of the eighth paragraph of the former Rule 600 Comment, with additional citations to relevant case law.

The second paragraph in the “Commencement of Trial; Time for Trial” section of the Comment incorporates the provisions of the seventh paragraph of the former Rule 600 Comment.

The third paragraph in the “Commencement of Trial; Time for Trial” section of the Comment is new and was added in response to publication responses. The paragraph alerts the bench and bar to the Court’s holding in *Commonwealth v. Meadius*, 582 Pa. 174, 870 A.2d 802 (2005), concerning the situation in which the Commonwealth files a criminal complaint, withdraws that complaint, and files a second complaint and the calculation of the time for trial in these circumstances.

¹⁵ Provisions from the former Rule 600 Comment that have been incorporated without change into the new Rule 600 Comment have not been discussed in this overview.

Computation of Time

The reference to *Commonwealth v. Hill* and *Commonwealth v. Cornell*, 558 Pa. 238, 736 A.2d 578 (1999), in former Rule 600 has been expanded by explaining that the mere filing of a pretrial motion does not automatically render a defendant unavailable, and that a defendant would be unavailable only if the delay in commencement of trial is caused by filing a pretrial motion.

2. Rules 106 and 542: Correlative Amendments

Correlative to the provisions in new Rule 600 with regard to continuances, Rules 106 (Continuances in Summary and Court Cases) and 542 (Preliminary Hearing; Continuances) have been amended to include the requirement that the judge or issuing authority make a record of to which party the period of delay caused by the continuance is attributed, and to require the judge to indicate whether the time is included or excluded from the Rule 600 computation of time. To accomplish this in Rule 106, the procedures for the issuing authority and for the common pleas court judges in current paragraph (B) have been divided into separate paragraphs. Paragraph (B) continues to provide the procedures for the issuing authorities to follow. New paragraph (C) incorporates the provisions from paragraph (B) concerning common pleas judges and provides the additional procedures for the common pleas court judges concerning recording to whom the period of delay caused by the continuance is to be attributed and whether the time is includable or excludable.

Rule 542(G)(1) is amended by the addition of the requirement that when the preliminary hearing is conducted in the court of common pleas, the judge is required to record the party to whom the period of delay caused by the continuance is attributed and whether the delay is excludable or includable.

3. ARD: Correlative Changes

The former Rule 600 Comment includes the following two paragraphs concerning ARD:

Although a defendant's removal from the ARD program does not result in a "new trial" under paragraph (D)(3), termination of the defendant's ARD program pursuant to Rule 318 commences a new trial period for the purpose of this rule.

In addition to requesting that the defendant waive Rule 600 for the period of enrollment in the ARD program (see Rule 312, paragraph (3)), the attorney for the Commonwealth may request that the defendant waive Rule 600 for the period of time spent in processing and considering the defendant's inclusion into the ARD program.

The first paragraph is no longer necessary given the specific ARD provisions in new paragraphs (A)(2)(c) and (B)(3) of new Rule 600. Accordingly, this paragraph has been deleted from the Comment.

In addition, the second paragraph more appropriately belongs in the ARD rules. Accordingly, this paragraph has been moved to the Rule 312 Comment. The Rule 318 Comment has been revised to change the reference to Rule 600 to conform to the new organization of Rule 600.

II. Rules 106 and 542: Additional Changes

In addition to the changes made to Rules 106 and 542 that are correlative to the Rule 600 proposal, additional changes have been made to these rules.

The Committee, as part of its ongoing review of case law, considered Superior Court Judge Popovich's suggestion in *Commonwealth v. Panto*, 913 A.2d 292 (Pa. Super. 2006), that Rule 106 include a requirement that the notice of the continuance set forth the date, time, and place of the continued proceeding. Judge Popovich remarks in footnote 5 of *Commonwealth v. Panto* at 297:

The Criminal Procedural Rules Committee may want to examine the disparity between the notice required for a preliminary hearing (listing the place, date and time a defendant is to appear before the issuing authority, see Pa.R.Crim.P. 510(A), 512), the notice granting a continuance of a preliminary hearing (listing the new date and time, with notice provided to the defendant, see Pa.R.Crim.P. 542(D)(2)(a), (b)), and the notice of the grant of a continuance in the case at bar, which "Application for Continuance" form merely made provision for listing the new date without any mention of the concomitant time and/or place for the trial *de novo*. Provision for inclusion of these temporal and physical elements could be in the form of amendments to Pa.R.Crim.P. 106 ("Continuances in Summary and Court Cases"). This would provide the party's attorney or, if unrepresented, the party with sufficient notice of the date, time and place of the continuance with a cross-reference to Pa.R.Crim.P. 114 regarding the methodology by which notice is to be served upon the parties.

The Committee agreed a uniform requirement for all continuance notices concerning the information about the rescheduled proceeding makes sense. Accordingly, Rule 106 has been amended by the addition of a new paragraph (E) that requires, when a continuance is granted, the notice of the continuance must include the new date, time, and location of the proceeding. A conforming amendment to Rule 542(G)(2) adds "place" to the information contained in the notice of continuance of the preliminary hearing.

The manner of service of continuance notices also is addressed in Rule 106. This change is intended to avoid the type of issues that arose in the *Panto* case. To accomplish this, new paragraph (E) includes the requirement that the notice of the continuance is to be served on the parties as provided in the rules. A cross-reference to Rule 114 (Orders and Court Notices: Filing; Service; and Docket Entries) has been added in the Rule 106 Comment to emphasize that the provisions of Rule 114 govern the method of service of the continuance notices. Because Rule 542(E)(2)(b) and (c) provide the method of service of the notice of the continuance of the preliminary hearing that are different from the provisions in Rule 114, the Rule 106 Comment includes a cross-reference to the service provisions in Rule 542(E).

Finally, because the intent is that Rule 106 applies to continuances in all criminal proceedings, which is not clear in Rule 106 in view of the use of the word "trial" in paragraph (D), "trial" has been changed to "proceeding" in paragraph (D).

[Pa.B. Doc. No. 12-2025. Filed for public inspection October 19, 2012, 9:00 a.m.]

[234 PA. CODE CH. 8]

Order Amending Rules 800 and 801 of the Rules of Criminal Procedure; No. 418 Criminal Procedure Rules Doc.

Order

Per Curiam

And Now, this 1st day of October, 2012, upon the recommendation of the Criminal Procedural Rules Committee; the proposal having been submitted without publication in the interests of justice and efficient administration pursuant to Pa.R.J.A. No. 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 Pennsylvania Rules of Criminal Procedure 800 and 801 are amended in the following form.

This *Order* shall be processed in accordance with Pa.R.J.A. No. 103(b), and shall be effective November 1, 2012.

Annex A

TITLE 234. RULES OF CRIMINAL PROCEDURE

CHAPTER 8. SPECIAL RULES FOR CASES IN WHICH DEATH SENTENCE IS AUTHORIZED

Rule 800. Applicability of Subchapter.

[The] Except as provided in Rule 801, the rules of this chapter shall apply to the guilt and penalty determination phases of all cases in which the imposition of a sentence of death is authorized by law.

Comment

* * * * *

When a jury is empaneled for the first time for sentencing, or for resentencing, the jury trial rules (Chapter [600] 6) apply. *See*, for example, Rule 631 (Examination and Challenges of Trial Jurors).

This chapter does not provide procedures for those cases in which the Supreme Court vacates a sentence of death and remands the case to the trial court for the imposition of a life imprisonment sentence. *See* 42 Pa.C.S. § 9711(h)(4).

For post-verdict procedures in cases in which a sentence of death is authorized by law, see Rule [809] 811.

Official Note: Previous Rule 351 adopted September 22, 1976, effective November 1, 1976; rescinded April 2, 1978, effective immediately. Present Rule 351 adopted July 1, 1985, effective August 1, 1985; Comment revised February 1, 1989, effective July 1, 1989; amended October 29, 1990, effective January 1, 1991; renumbered Rule 800 and amended March 1, 2000, effective April 1, 2001; **amended October 1, 2012, effective November 1, 2012.**

Committee Explanatory Reports:

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Final Report explaining the March 1, 2000 reorganization and renumbering of the rules published with the Court's Order at 30 Pa.B. [1477] 1478 (March 18, 2000).

Final Report explaining the October 1, 2012 amendments clarifying the application of the Chapter to Rule 801 published with the Court's Order at 42 Pa.B. 6635 (October 20, 2012).

Rule 801. Qualifications for Defense Counsel in Capital Cases.

In all cases in which the district attorney has filed a Notice of Aggravating Circumstances pursuant to Rule 802, before an attorney may participate in **any stage of** the case either as retained or appointed counsel, the attorney must meet the educational and experiential criteria set forth in this rule.

* * * * *

Official Note: Adopted June 4, 2004, effective November 1, 2004; amended April 13, 2007, effective immediately; **amended October 1, 2012, effective November 1, 2012.**

Committee Explanatory Reports:

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Final Report explaining the October 1, 2012 changes to the first paragraph published with the Court's Order at 42 Pa.B. 6635 (October 20, 2012).

FINAL REPORT¹

Amendments to Pa.Rs.Crim.P. 800 and 801

Scope of Chapter 8 of Rules of Criminal Procedure

On October 1, 2012, effective November 1, 2012, upon the recommendation of the Criminal Procedural Rules Committee, the Court amended Pa.R.Crim.P. 800 (Applicability of Subchapter) and Pa.R.Crim.P. 801 (Qualifications for Defense Counsel in Capital Cases) to clarify the scope of Chapter 8 of the Rules of Criminal Procedure.

The Committee reviewed the scope of Chapter 8 in response to an inquiry that suggested an apparent conflict between Rule 800 and Rule 801 with regard to the scope of Chapter 8. Rule 800 provides that the rules in Chapter 8 apply to the guilt and penalty determination phases of a capital case. Rule 801, as explained in that rule's Comment, applies to all stages of a capital case—pretrial, trial, post-conviction, and appeal. Although the Committee is not aware of any cases in which this conflict has been an issue, the members, believing it would be prudent, as well as helpful to the bench and bar, if the difference in the scope of these two rules was clarified, recommended clarifying changes to the Court.

Rule 800 has been amended to acknowledge that Rule 801 is an exception to the limited scope of Chapter 8. Rule 801 has been amended to add to the text of the rule that it applies to all stages of a case.

[Pa.B. Doc. No. 12-2026. Filed for public inspection October 19, 2012, 9:00 a.m.]

¹ The Committee's 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.

Title 255—LOCAL COURT RULES

DAUPHIN COUNTY

Fees for Alcohol Highway Safety School, Accelerated Rehabilitative Disposition and Court Reporting Network Evaluation; AO No. AO-16-2012; No. 10-13-MD-2012

Administrative Order

And Now, this 3rd day of October, 2012, *It Is Hereby Ordered* that a \$250.00 fee shall be assessed for Alcohol Highway Safety School (AHSS). The Court Reporting Network (CRN) evaluation fee shall be \$75.00.

It Is Further Ordered that a \$25.00 fee shall be assessed for rescheduling a CRN appointment or AHSS class. The fee must be paid in advance of re-admittance to the appointment or class.

All Accelerated Rehabilitative Disposition (ARD) applicant fees must be paid in full prior to ARD orientation.

The provisions of this order supersede all prior orders on this subject and shall be effective January 1, 2013.

By the Court

TODD A. HOOVER,
President Judge

[Pa.B. Doc. No. 12-2027. Filed for public inspection October 19, 2012, 9:00 a.m.]