

THE COURTS

Title 237—JUVENILE RULES

PART I. RULES

[237 PA. CODE CHS. 1, 3 AND 8]

Proposed Amendments to Rules 120, 160, 166, 340 and 800 and Proposed New Rule 161

The Juvenile Court Procedural Rules Committee (Committee) is planning to recommend to the Supreme Court of Pennsylvania that the modification of Rules 120, 160, 161, 166, 340 and 800 be adopted and prescribed. These proposed modifications distinguish the official court record from the juvenile probation file.

The following Explanatory Report highlights the intent of these Rules. Note that the Committee's Reports should not be confused with the official Committee Comments to the Rules. Also note that the Supreme Court does not adopt the Committee's Comments or the contents of the Explanatory Reports.

The Committee requests that interested persons submit suggestions, comments or objections concerning this proposal to the Committee through counsel, Christine Riscili at juvenilerules@pacourts.us. E-mail is the preferred method for receiving comments in an effort to conserve paper and expedite the distribution of comments to the Committee. E-mailed comments need not be reproduced and sent by means of hard copy. The Committee will acknowledge receipt of your comment.

For those who do not have access to e-mail, comments may be faxed to the Committee at (717) 231-9541 or written comments may be mailed to:

Christine Riscili, Esq., Counsel
 Supreme Court of Pennsylvania
 Juvenile Court Procedural Rules Committee
 Pennsylvania Judicial Center
 601 Commonwealth Avenue, Suite 6200
 P. O. Box 62635
 Harrisburg, PA 17106-2635.

All comments shall be received no later than Monday, September 20, 2010.

By the Juvenile Court Procedural Rules Committee
 CYNTHIA K. STOLTZ, Esq.,
Chair

Annex A

TITLE 237. JUVENILE RULES

PART I. RULES

Subpart A. DELINQUENCY MATTERS

CHAPTER 1. GENERAL PROVISIONS

PART A. BUSINESS OF COURTS

Rule 120. Definitions.

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JUVENILE PROBATION FILES are those records maintained by the juvenile probation office and its officers, including, but not limited to, copies of information contained in the official juvenile court record; social studies; school records and reports; health evaluations, records, and reports, including psychological and psychiatric evaluations and reports, drug and alcohol testing, evaluations, and

reports; placement reports and documents; employment records; and probation notes and evaluations.

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Official Note: Rule 120 adopted April 1, 2005, effective October 1, 2005. Amended December 30, 2005, effective immediately. Amended March 23, 2007, effective August 1, 2007. Amended February 26, 2008, effective June 1, 2008. Amended July 28, 2009, effective immediately. Amended December 24, 2009, effective immediately.

Committee Explanatory Reports:

Final Report explaining the amendments to Rule 120 published with the Court's Order at 36 Pa.B. 186 (January 14, 2006).

Final Report explaining the amendments to Rule 120 published with the Court's Order at 37 Pa.B. 1483 (April 7, 2007).

Final Report explaining the amendments to Rule 120 published with the Court's Order at 38 Pa.B. 1142 (March 8, 2008).

Final Report explaining the amendment to Rule 120 published with the Court's Order at 39 Pa.B. 4743 (August 8, 2009).

Final Report explaining the amendments to Rule 120 published with the Court's Order at 40 Pa.B. 222 (January 9, 2010).

PART C. RECORDS

PART C(1). ACCESS TO JUVENILE RECORDS

Rule 160. Inspection of the Official Court Record.

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Comment

The term "inspection" in paragraph (A) does not include the copying of the official court record. The court may order that any person, agency, or department listed in paragraph (A) receive a copy of all or portions of the record. The court order is to state: 1) the specific information the person may receive; 2) that the information received shall not be disseminated to any person, agency, or department not listed in the court order; and 3) that any dissemination of the information received is a violation of the court order.

See the Juvenile Act, 42 Pa.C.S. § 6307, for the statutory provisions on inspection of the juvenile's file and 42 Pa.C.S. § 6352.1 for disclosure of treatment records.

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Official Note: Rule 160 adopted April 1, 2005, effective October 1, 2005; amended December 30, 2005, effective immediately. Amended August 20, 2007, effective December 1, 2007. Amended May 12, 2008, effective immediately. Amended December 24, 2009, effective immediately.

Committee Explanatory Reports:

Final Report explaining the provisions of Rule 160 published with the Court's Order at 35 Pa.B. 2214 (April 16, 2005).

Final Report explaining the revisions of Rule 160 published with the Court's Order at 36 Pa.B. 186 (January 14, 2006).

Final Report explaining the amendments to Rule 160 published with the Court's Order at 37 Pa.B. 4866 (September 8, 2007).

Final Report explaining the amendments to Rule 160 published with the Court's Order at 38 Pa.B. 2360 (May 24, 2008).

Final Report explaining the amendments to Rule 160 published with the Court's Order at 40 Pa.B. 222 (January 9, 2010).

Rule 161. Inspection and Sharing of Juvenile Probation Files.

A. Generally. Juvenile Probation Files shall be open to inspection and/or copying only by:

- 1) the juvenile's attorney;
- 2) the attorney for the Commonwealth; or
- 3) any other person, agency, or department by order of court.

B. Contents of order. The order shall:

- 1) specify who shall be permitted to inspect the record or any portion of the record;
- 2) specify who shall be permitted to copy the record;
- 3) state that the information received shall not be disseminated to any person, agency, or department not listed in the court order; and
- 4) state that any dissemination of the information received is a violation of the court order.

C. Sharing. The juvenile probation office has discretion to share its records with service providers; placement facilities; and courts and courts' professional staff of other jurisdictions when facilitating placement or transfer to another jurisdiction. Any dissemination of the information received, unless specifically authorized by court order, is a violation of that order.

Comment

Juvenile probation can place documents from its files into the official court record. Those documents placed in the official court record are governed by Rule 160.

PART C(2). MAINTAINING RECORDS

Rule 166. Maintaining Records in the Clerk of Courts.

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Comment

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This rule is not intended to include items contained in the juvenile probation records or reports. [See Rule 160 (Inspection of the Official Court Record) and its Comment for items contained in juvenile probation records or reports.]

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Official Note: Rule 166 adopted April 1, 2005, effective October 1, 2005. Amended December 24, 2009, effective immediately.

Committee Explanatory Reports:

Final Report explaining the provisions of Rule 166 published with the Court's Order at 35 Pa.B. 2214 (April 16, 2005).

Final Report explaining the amendments to Rule 166 published with the Court's Order at 40 Pa.B. 222 (January 9, 2010).

**CHAPTER 3. PRE-ADJUDICATORY PROCEDURES
PART D. PROCEDURES FOLLOWING FILING OF PETITION**

Rule 340. Pre-Adjudicatory Discovery and Inspection.

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Comment

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In addition to information requested under this rule, an attorney has the right to inspect all court records and files, including probation records and reports. See [Rule] Rules 160 and 161.

Official Note: Rule 340 adopted April 1, 2005, effective October 1, 2005.

Committee Explanatory Reports:

Final Report explaining the provisions of Rule 340 published with the Court's Order at 35 Pa.B. 2214 (April 16, 2005).

CHAPTER 8. SUSPENSIONS

Rule 800. Suspensions of Acts of Assembly.

This rule provides for the suspension of the following Acts of Assembly that apply to delinquency proceedings only:

1) The Act of November 21, 1990, P. L. 588, No. 138, § 1, 42 Pa.C.S. § 8934, which authorizes the sealing of search warrant affidavits, and which is implemented by Pa.R.Crim.P. Rule 211, through Pa.R.J.C.P. Rule 105, is suspended only insofar as the Act is inconsistent with Pa.R.Crim.P. Rules 205, 206 and 211.

2) The Act of July 9, 1976, P. L. 586, No. 142, § 2, 42 Pa.C.S. § 6307, which provides that all files and records of the court in a proceeding are open to inspection by the specified persons, agencies, or departments, is suspended only insofar as the Act is inconsistent with Rules 120 and 161, which provides that only the parties' attorneys may inspect and copy juvenile probation files without order of court.

3) The Act of July 9, 1976, P. L. 586, No. 142, § 2, 42 Pa.C.S. § 6335(c), which provides for the issuance of arrest warrants if the juvenile may abscond or may not attend or be brought to a hearing, is suspended only insofar as the Act is inconsistent with Rules 124, 140, and 364, which require a summoned person to fail to appear and the court to find that sufficient notice was given.

[3] 4) The Act of July 9, 1976, P. L. 586, No. 142, § 2, 42 Pa.C.S. § 6336(c), which provides that if a proceeding is not recorded, full minutes shall be kept by the court, is suspended only insofar as the Act is inconsistent with Rule 127(A), which requires all proceedings to be recorded, except for detention hearings.

[4] 5) The Public Defender Act, Act of December 2, 1968, P. L. 1144, No. 358, § 1 et seq. as amended through Act of December 10, 1974, P. L. 830, No. 277, § 1, 16 P. S. 9960.1 et seq., which requires the Public Defender to represent all juveniles who for lack of sufficient funds are unable to employ counsel is suspended only insofar as the Act is inconsistent with Rules 150 and 151, which require separate counsel if there is a conflict of interest.

[5] 6) The Act of July 9, 1976, P. L. 586, No. 142, § 2, 42 Pa.C.S. § 6337, which provides that counsel must be provided unless the guardian is present and waives counsel for the juvenile, is suspended only insofar as the Act is inconsistent with Rule 152, which does not allow a guardian to waive the juvenile's right to counsel.

[6] 7) The Act of July 9, 1976, P. L. 586, No. 142, § 2, 42 Pa.C.S. § 6305(b), which provides that the court may direct hearings in any case or class or cases be conducted by the master, is suspended only insofar as the Act is inconsistent with Rule 187, which allows masters to hear only specific classes of cases.

[7] 8) The Act of July 9, 1976, P. L. 586, No. 142, § 2, 42 Pa.C.S. § 6321, which provides for commencement of a proceeding by the filing of a petition, is suspended only insofar as the Act is inconsistent with Rule 200, which provides the submission of a written allegation shall commence a proceeding.

[8] 9) The Act of July 9, 1976, P. L. 586, No. 142, § 2, 42 Pa.C.S. § 6303(b), which provides that a district judge or judge of the minor judiciary may not detain a juvenile, is suspended only insofar as the Act is inconsistent with Rule 210, which allows Magisterial District Judges to issue an arrest warrant, which may lead to detention in limited circumstances.

[9] 10) The Act of July 9, 1976, P. L. 586, No. 142, § 2, 42 Pa.C.S. § 6334, which provides that any person may bring a petition, is suspended only insofar as the Act is inconsistent with Rules 231, 233, and 330, which provide for a person other than a law enforcement officer to submit a private written allegation to the juvenile probation office or an attorney for the Commonwealth, if elected for approval; and that only a juvenile probation officer or attorney for the Commonwealth may file a petition.

[10] 11) The Act of July 9, 1976, P. L. 586, No. 142, § 2, 42 Pa.C.S. § 6304(a)(2), which provides that probation officers may receive and examine complaints for the purposes of commencing proceedings, is suspended only insofar as the Act is inconsistent with Rules 231 and 330, which provide that the District Attorney may file a certification that requires an attorney for the Commonwealth to initially receive and approve written allegations and petitions.

[11] 12) The Act of July 9, 1976, P. L. 586, No. 142, § 2, 42 Pa.C.S. § 6331, which provides for the filing of a petition with the court within twenty-four hours or the next business day of the admission of the juvenile to detention or shelter care, is suspended only insofar as the Act is inconsistent with the filing of a petition within twenty-four hours or the next business day from the detention hearing if the juvenile is detained under Rule 242.

[12] 13) The Act of July 9, 1976, P. L. 586, No. 142, § 2, 42 Pa.C.S. § 6323(a)(2), which provides that a delinquent child may be referred for an informal adjustment by a juvenile probation officer, is suspended only insofar as the Act is inconsistent with Rule 312, which provides that only an *alleged* delinquent child may be referred for an informal adjustment because the filing of informal adjustment shall occur prior to the filing of a petition.

[13] 14) Section 5720 of the Wiretapping and Electronic Surveillance Control Act, Act of October 4, 1978, P. L. 831, No. 164, 18 Pa.C.S. § 5720, is suspended as

inconsistent with Rule 340 only insofar as the section may delay disclosure to a juvenile seeking discovery under Rule 340(B)(6); and Section 5721(b) of the Act, 18 Pa.C.S. § 5721(b), is suspended only insofar as the time frame for making a motion to suppress is concerned, as inconsistent with Rules 347 and 350.

[14] 15) The Act of July 9, 1976, P. L. 586, No. 142, § 2, 42 Pa.C.S. § 6340(c), which provides consent decree shall remain in force for six months unless the child is discharged sooner by probation services with the approval of the court, is suspended only insofar as the Act is inconsistent with the requirement of Rule 373 that a motion for early discharge is to be made to the court.

[15] 16) The Act of July 9, 1976, P. L. 586, No. 142, § 2, 42 Pa.C.S. § 6335, which provides for a hearing within ten days of the juvenile's detention unless the exceptions of (a)(1) & (2) or (f) are met, is suspended only insofar as the Act is inconsistent with Rule 391, which provides for an additional ten days of detention if a notice of intent for transfer to criminal proceedings has been filed.

[16] 17) The Act of July 9, 1976, P. L. 586, No. 142, § 2, 42 Pa.C.S. § 6353(a), which requires dispositional review hearings to be held at least every nine months, is suspended only insofar as it is inconsistent with the requirement of Rule 610, which requires dispositional review hearings to be held at least every six months when a juvenile is removed from the home.

Comment

The authority for suspension of Acts of Assembly is granted to the Supreme Court by Article V § 10(c) of the Pennsylvania Constitution. See also Rule 102.

Official Note: Rule 800 adopted April 1, 2005, effective October 1, 2005; amended December 30, 2005, effective immediately; amended March 23, 2007, effective August 1, 2007; amended February 26, 2008, effective June 1, 2008; amended March 19, 2009, effective June 1, 2009. Amended February 12, 2010, effective immediately.

Committee Explanatory Reports:

Final Report explaining the amendments to Rule 800 published with the Court's Order at 36 Pa.B. 186 (January 14, 2006).

Final Report explaining the amendments to Rule 800 published with the Court's Order at 37 Pa.B. 1483 (April 7, 2007).

Final Report explaining the amendments to Rule 800 published with the Court's Order at 38 Pa.B. 1142 (March 8, 2008).

Final Report explaining the amendments to Rule 800 published with the Court's Order at 39 Pa.B. 1614 (April 4, 2009).

Final Report explaining the amendments to Rule 800 published with the Court's Order at 40 Pa.B. 1073 (February 27, 2010).

Explanatory Report

Background

In December of 2009, the Court adopted changes to Rules 120 and 160 which eliminated the inspection of juvenile probation records from the Rules of Court. The scope of Rule 160 was changed from Inspection of Juvenile File/Records to Inspection of the Official Court Record as defined by Rule 120.

It was important to define the official court record, and provide for who oversees the record, and how the record is viewed. The Committee deferred addressing juvenile probation files until a future date.

In early 2010, judges and probation officers from various judicial districts inquired as to whether the Rules addressed the copying and inspection of juvenile probation records.

Now, in these Rule changes, the official court record is further being distinguished from juvenile probation files. These proposed changes provide for the inspection and/or copying of juvenile probation files.

Rule 120—Definitions

The definition of juvenile probation files explains what is included in the juvenile probation file and distinguishes it from the official court record. Copies of documents contained in the official court record may, however, also be included in the juvenile probation file.

Rule 160—Inspection of the Official Court Record

The Comment explains that the inspection of the record does not include copying the record. It is important that the court order clearly articulate whether copying is permitted. The court order should specify: 1) the exact information a person may receive; 2) that the information shall not be disseminated to any person, agency, or department not specified in the court order; and 3) that any dissemination is a violation of the court order.

The court must balance the importance of sharing critical information with a specific individual, agency, or department with the potential inappropriate use of information once released.

This Rule limits the distribution of the information and provides that it is unlawful to further disseminate court information concerning a juvenile.

Rule 161—Inspection of Juvenile Probation Files

This proposed Rule provides for the inspection and/or copying of juvenile probation files by the party's attorneys. If the court determines if any other person, agency, or department needs the information in the probation file, the court specifically shall order it.

The Rule also provides for the sharing of records in paragraph (C). The sharing of information is controlled by the juvenile probation office. The Rule gives the probation office discretion to share information with service providers, placement facilities, and courts of other jurisdictions. This is necessary for the juvenile probation office to perform its daily operations and carry out its responsibilities in maintaining its services for its juveniles.

The Rule also mandates that when the juvenile probation office shares information, it will not be further disseminated. Dissemination of information received, unless specifically authorized, is a violation of the court order.

Rule 166—Maintaining Records in the Clerk of Courts

Juvenile probation records are not a part of the Official Court Record; therefore, this Comment is being deleted. Prior to the changes of Rule 160 in December of 2009, many judicial districts interpreted juvenile probation files as a part of the "files and records of the court." See Rule 800 for suspension of 42 Pa.C.S. § 6307.

Rule 340—Pre-adjudatory Discovery and Inspection

The new Rule 161 has been cited in the Comment to this Rule.

Rule 800—Suspension of Acts of Assembly

This Rule suspends § 6307 of the Juvenile Act only to the extent that it conflicts with new Rule 161. "All files and records of the court" does not include juvenile probation files.

[Pa.B. Doc. No. 10-1513. Filed for public inspection August 20, 2010, 9:00 a.m.]

Title 25—LOCAL COURT RULES

CRAWFORD COUNTY

In the Matter of the Adoption of Local Criminal Rules of Procedure; AD 2 of 2010; Criminal Division

Order

And Now, this 6th day of August, 2010, it is *Ordered* and *Decreed* that the following Rules of the Court of Common Pleas of Crawford County, Pennsylvania, Criminal Division, are amended, rescinded or adopted as indicated this date, to be effective thirty (30) days after publication in the *Pennsylvania Bulletin* except the trial terms scheduling changes contained in Rule 552 will be effective for the March 2011 Term of Criminal Court.

Crawford County Local Criminal Procedural Rules 590 and 600 are amended to state as follows.

A portion of Crawford County Local Criminal Procedural Rule 319, as indicated is rescinded and Rule 502 is rescinded in its entirety, as is Form 502.

Crawford County Local Criminal Procedural Rule 552, including Form 552, is adopted.

Crawford County Local Criminal Procedural Rules 541 and 543 are amended only to the extent that any reference to Rule 502 is replaced with Rule 552.

The District Court Administrator is *Ordered* and *Directed* to:

1. Distribute two (2) certified paper copies and one (1) computer diskette or CD-ROM copy to the Legislative Reference Bureau for publication in the *Pennsylvania Bulletin*.
2. File one (1) certified copy of the local rule changes with the Administrative Office of Pennsylvania Courts.
3. Provide one (1) certified copy of the local rule changes to the Supreme Court of Pennsylvania Criminal Procedural Rules Committee.
4. Publish a copy of the local rule changes on the Unified Judicial System's web site at <http://ujportal.pacourts.us/localrules/ruleselection.aspx>.
5. Provide one (1) certified copy of the Local Rule changes to the Crawford County Law Library.
6. Keep such local rule changes, as well as all local criminal rules, continuously available for public inspection and copying in the Office of the Clerk of Courts of Crawford County and on the Crawford County web site at www.crawfordcountypa.net. Further, upon request and payment of reasonable costs of reproduction and mailing, the Clerk of Courts of Crawford County shall furnish a

copy of these changes to the local rules, as well as all local criminal procedural rules of this Court, to any person requesting the same.

By the Court

ANTHONY J. VARDARO,
President Judge

The second paragraph and the "Note" of Rule 319 is rescinded so that only Paragraph (1) of that rule, which states the following shall remain in effect:

Rule 319. Dismissal of Charges After Successful Completion of ARD Program.

Upon the successful completion of a defendant's participation in the Accelerated Rehabilitative Disposition Program, the Probation/Parole Department or the defendant may file a Motion requesting that the Court terminate the ARD case and dismiss the defendant's charges.

Rule 502. Local Scheduling Procedures. is rescinded and Rule 552. Local Scheduling Procedures. is adopted as follows:

Rule 552. Local Scheduling Procedures.

(1) Annually, no later than September 30th, the Court Administrator shall publish a schedule for the succeeding year setting forth the following pertinent dates that affect each criminal case with the appropriate schedule to be set in motion by the date the defendant either waives the preliminary hearing or is bound over following the preliminary hearing:

(a) The date of the formal arraignment, which shall be the first available formal arraignment date at least twenty (20) days after the preliminary hearing is held or waived.

(b) The date for the Call of the Criminal Trial List, which shall be no sooner than forty-five (45) days after formal arraignment nor less than thirteen (13) days from the date trial is scheduled to commence for the case.

(c) The first day of the trial term at which the case is scheduled.

(2) The Court Administrator shall, immediately after publishing said schedule, provide copies to each of the sitting judges, each sitting Issuing Authority, the District Attorney's Office, the Public Defender's Office, each member of the county criminal defense bar known to the Court Administrator and out-of-county criminal defense counsel known to have been recently practicing in Crawford County. Additionally, copies shall also be available, free of charge, at all times in the Court Administrator's Office, the Crawford County Clerk of Courts Office and shall be promptly posted by the Court Administrator on the Crawford County web site at www.crawfordcountypa.net.

(3) At the time a defendant is bound over to court or waives a preliminary hearing, each Issuing Authority shall prepare a Criminal Case Scheduling Form with an original and five copies substantially in the form set forth as Form 552.

The Issuing Authority shall orally advise the defendant and counsel of the time, date and place of formal arraignment and that the failure to appear at such formal arraignment or other required appearances as set forth in the Criminal Case Scheduling Form may result in the defendant's arrest and forfeiture of bond.

The Issuing Authority shall require the defendant to sign the Criminal Case Scheduling Form, indicating the defendant is aware of the time, date and place of formal

arraignment and of the obligation to appear at formal arraignment and other proceedings noted thereon.

Once the Criminal Case Scheduling Form has been completed, the defendant shall be provided with a copy and the Issuing Authority shall retain a copy for the Issuing Authority's records. If they are present, the Issuing Authority shall provide a copy to the defendant's attorney and/or the District Attorney's Office. All undistributed copies, together with a copy for the Court Administrator, shall be forwarded promptly to the Court Administrator for proper distribution. The original Criminal Case Scheduling Form shall be attached to the official record when it is forwarded to the Clerk of Courts as required by Pa.R.Crim.P. 547.

(4) The Thursday prior to the commencement of trials for a criminal trial term is the last day the Court will accept negotiated pleas (plea bargains) and jury trial waivers unless a judge of this Court determines there was extraordinary cause for the deadline to be missed.

For the purpose of this rule, a "negotiated plea" or "plea bargain" shall include any agreement between the parties that will result in the Commonwealth dismissing one or more charges and/or reducing the grading of one or more charges and/or making a sentencing recommendation favorable in any way to the defendant.

"Extraordinary cause" will only be found to have occurred if the Court is satisfied that, despite the best efforts of both the Commonwealth and the defense, the negotiated plea deadline or jury trial waiver deadline prescribed in these rules could not be met.

**IN THE COURT OF COMMON PLEAS OF
CRAWFORD COUNTY, PENNSYLVANIA
CRIMINAL DIVISION**

COMMONWEALTH OF PENNSYLVANIA : **Common Pleas No.: CR** _____

MDJ No.: CR _____

vs. : **OTN No.:** _____

: **Revised**

Defendant

CRIMINAL CASE SCHEDULING FORM

Charges: _____ Date Complaint Filed: _____

Defense Counsel

Date of Preliminary hearing/waiver

IMPORTANT NOTICE

You and your attorney and/or attorney's representative are required to appear for the following proceedings. These dates may not be changed without leave of Court.

1. Formal Arraignment: _____ 9:00 a.m.; prevailing local time, in Assembly Room, basement, Crawford County Courthouse, Meadville, Pennsylvania. Formal arraignment may be waived, but **ONLY** if you have an attorney prior to your formal arraignment date.

2. Criminal Call of List: _____ 8:45 a.m., prevailing local time, Courtroom No. 1, Crawford County Courthouse, Meadville, Pennsylvania.

CAUTION: YOU MUST APPEAR AT THE CALL OF THE CRIMINAL TRIAL LIST. IF YOU FAIL TO APPEAR, A BENCH WARRANT WILL BE ISSUED FOR YOUR ARREST.

THE LAST DAY FOR THE COURT TO ACCEPT NEGOTIATED PLEAS (PLEA BARGAINS) IS THE THURSDAY PRIOR TO THE FIRST DAY OF JURY TRIALS. THAT SAME DATE IS THE LAST DAY YOU MAY, WITH THE CONSENT OF THE DISTRICT ATTORNEY'S OFFICE, ASK THE COURT TO ALLOW YOU TO WAIVE YOUR RIGHT TO A JURY TRIAL AND INSTEAD BE TRIED BEFORE A JUDGE.

3. First day of Jury Trials: _____ 8:45 a.m.; prevailing local time; Courtroom No. 1, 2 or 3, Crawford County Courthouse, Meadville, Pennsylvania.

ANY FAILURE TO APPEAR FOR A SCHEDULED COURT APPEARANCE MAY RESULT IN FORFEITURE OF YOUR BAIL BOND AND THE ISSUANCE OF A BENCH WARRANT FOR YOUR ARREST AS WELL AS ADDITIONAL CHARGES OF DEFAULT IN REQUIRED APPEARANCE.

You must, within forty-eight (48) hours of any change of address and/or telephone number, notify the Crawford County Clerk of Courts Office (814-333-7442), the Crawford County Court Administrator's Office (814-333-7498), the Crawford County District Attorney's Office (814-333-7455) and your attorney of any change of address and/or telephone number.

The undersigned hereby acknowledges receipt of a copy of this notice.

Date: _____

 Signature of Defendant

Original: Clerk of Courts [White]
 Court Administrator [Gold]
 District Attorney [Green]
 Defense Counsel [Yellow]
 Defendant [Pink]
 Issuing Authority [Blue]

 Signature of Issuing Authority

Form 552

Rule 590 is amended to state as follows and Form 590 is amended only to the extent the modification to the "Megan's Law Supplement to Guilty Plea Colloquy is changed as follows:

Rule 590. Pleas, Plea Agreements and Written Colloquies.

(1) The Court will be available for the purpose of taking guilty or *nolo contendere* pleas from time to time as designated by the Court Administrator. Those times shall include each Thursday afternoon that court is in session unless otherwise rescheduled with advance notice to the District Attorney and the criminal defense bar. Pleas will also be taken immediately after the Call of the Criminal Trial List.

(2) Plea Agreements—Whenever a guilty plea or *nolo contendere* plea agreement is reached between the parties, a Plea Agreement Form substantially in the form set forth in Form 590 shall be filled out. Said form shall be signed by the District Attorney or Assistant District Attorney, defense counsel, and the defendant. A copy of the form to ultimately be filed in the Court Administrator's Office shall be provided by the District Attorney's

Office to the judge who is taking the plea. Copies of the Plea Agreement Form shall be supplied to defense counsel and the defendant.

(3) Written Guilty Plea and *Nolo Contendere* Colloquies—The Court, within the discretion of the individual judge presiding at Plea Court, will permit guilty pleas and *nolo contendere* pleas to be entered through the use of a written colloquy on a form substantially consistent with the form hereinafter set forth in this rule, provided that the defendant is represented by counsel.

Those entering pleas through a written colloquy will do so at the onset of Plea Court times scheduled as aforesaid. Counsel representing the defendant who will be entering a plea through the use of a written colloquy shall appear with such clients at the time set for Plea Court to actually begin rather than the time designated for the video explaining a defendant's rights which begins approximately a half hour before the scheduled Plea Court.

A written plea colloquy shall not be used where defendants are pleading guilty or *nolo contendere* to first, second or third degree murder. Otherwise a judge may decide that a written plea colloquy should not be used in certain cases.

If the plea is to be entered through the use of a written guilty plea or *nolo contendere* colloquy, counsel shall review and explain to the defendant the contents of the colloquy form and shall be satisfied that the defendant understands all of the questions on the form and that the defendant is entering a knowing and voluntary plea.

The defendant's counsel's signature on the Guilty or *Nolo Contendere* Plea Colloquy Form shall constitute a certification by the attorney that the attorney has read, discussed and explained the elements of all offenses and all other questions on the plea form, and to the best of counsel's knowledge, information or belief the defendant understands the consequences of his entering the plea.

The Guilty or *Nolo Contendere* Plea Colloquy shall be prepared substantially in the form hereinafter set forth and shall be filed in open court at the time of the entry of any plea of guilty or *nolo contendere*.

(4) Megan's Law Supplement to Guilty Plea Colloquy—If a guilty plea or *nolo contendere* plea is entered by a defendant using a written plea colloquy substantially in the form hereinafter set forth in this Rule and the defendant is subject to the provisions of Megan's Law, the Megan's Law Supplement to Guilty Plea Colloquy hereinafter set forth shall be used.

Counsel shall review and explain to the defendant the contents of the Megan's Law Supplement and shall be satisfied that the defendant understands all the questions on the Megan's Law Supplement form.

The Megan's Law Supplement to Guilty Plea Colloquy shall be filed in open court at the time of the entry of any plea of guilty or *nolo contendere*.

(5) Whenever a guilty plea or *nolo contendere* colloquy is presented, the judge accepting the written plea colloquy will also conduct a limited oral colloquy to supplement the written guilty plea and *nolo contendere* colloquy.

(6) The last day to enter a negotiated guilty or *nolo contendere* plea, as defined in Rule 552(4), shall be the Thursday prior to the commencement of trials unless "extraordinary cause," as defined in Rule 552(4) exists.

**MEGAN'S LAW SUPPLEMENT TO
GUILTY PLEA COLLOQUY**

FORM 590

Paragraph Number (1) of the portion of Form 590, known as the "Megan's Law Supplement to Guilty Plea Colloquy" is rescinded thirty (30) days after publication in the *Pennsylvania Bulletin* and effective that same date the following shall become numbered Paragraph (1) of the "Megan's Law Supplement to Guilty Plea Colloquy."

- (1) Do you understand that as a result of your conviction, you will be required to register with the Pennsylvania State Police and inform them of your current address and any change of address within forty-eight (48) hours of such change? _____

Rule 600. Sessions of Criminal Court, Trial List and Other Procedures. is amended to state as follows in its entirety and Form 600 is adopted.

Rule 600. Sessions of Criminal Court, Trial List and Other Procedures.

(1) Sessions of Criminal Court

(a) Regular sessions of Criminal Term of Court shall be held during the months of January, March, May, June, September and November of each year as designated on the court calendar published annually by the Court. Such sessions may be extended or other special sessions may be held at such times as will conform most conveniently to the business of the Court and the state and local criminal rules so long as at least 30 days notice of any extension of a criminal term or any addition of a term beyond a regular session of court is given. The notice shall be given by the Court Administrator to the District Attorney's Office; the Public Defender's Office; members of the Crawford County criminal defense bar; out-of-county defense attorneys known to the Court Administrator's Office to recently practice in Crawford County and to all magisterial district judges. Further, the Court Administrator shall promptly post such notice on the Crawford County web site at www.crawfordcountypa.net.

(b) Sentence Court and any other hearings shall be scheduled from time to time by the Court Administrator as the Court may direct and in compliance with the Pennsylvania Rules of Criminal Procedure as well as these Local Rules.

(c) Whenever Plea Court is scheduled pursuant to Cra.R.Crim.P. 590(1), the District Attorney shall notify the Court Administrator of the defendants who are scheduled to plead on a particular plea date. The Court Administrator shall keep a plea list with the pleas scheduled for specific plea dates. The list shall be available in the Court Administrator's Office and the Clerk of Courts Office at least twenty-four (24) hours prior to the scheduled plea date. The District Attorney shall not be required to comply with this provision for pleas scheduled following the Call of Criminal Trial List.

(2) Trial List and Other Procedures

(a)(1) The Court Administrator shall maintain a master list of criminal cases chronologically as the Court Administrator receives a copy of the Criminal Case Scheduling Form required to be provided by the Issuing Authority pursuant to Rule 552 of these rules. This list shall be known as the "Master Criminal List." Each entry on this list shall include information deemed pertinent by the Court Administrator in consultation with the Court, but shall at least contain the name of the defendant, the number docketed for the case in the Clerk of Courts

Office, the pertinent date pursuant to Pa.R.Crim.P. 600 and the name of any attorney who has appeared on behalf of the defendant.

(2) The Court Administrator shall prepare the Criminal Trial List for each session of the Criminal Term of Court and shall arrange the cases in chronological order based on the current status of the "Master Criminal List" beginning with case number one on said list and continuing through the last case in which a defendant has been notified by the Criminal Case Scheduling Form provided that that defendant's case may be tried during the term for which the list was prepared.

(3) All cases continued to a new trial term or not reached during the trial term due to the unavailability of the Court, shall appear chronologically on the "Master Criminal List" in the order in which they had previously appeared ahead of those cases chronologically listed for the next trial term so that the oldest cases will appear first on any list.

(4) The "Master Criminal List" shall be available for counsel and other interested persons to view in the Court Administrator's Office during normal business hours and copies of the Criminal Trial List based on that "Master Criminal List" for each Criminal Term of Court shall be available free of charge in the Court Administrator's Office and in the Clerk of Courts Office at least one week prior to the call of the trial list for that designated Criminal Term of Court. That Criminal Trial List shall also be placed, by the Court Administrator's Office, on the Crawford County web site at www.crawfordcountypa.net at least one week prior to the Call of the Criminal Trial List for that designated Criminal Term of Court.

(a)(1) Cases for each criminal term shall be tried in the order in which they chronologically appear on the criminal trial list for that trial term unless otherwise adjusted by the Court Administrator for proper reasons.

(2) Any party upon good cause shown may move the Court to advance a case forward from its chronological location on the Criminal Trial List or have the case moved down further on the list to be tried either within the same term of Criminal Court or to be continued to the next term of Criminal Court. Any such motion must be filed in compliance with Pa.R.Crim.P. 106 and Cra.R.Crim.P. 106. The Court in its discretion may continue a case after that deadline if the motion to continue is consented to by the opposing party and/or the Court finds that good cause to continue the case has arisen after the Call of the Criminal Trial List.

(3) Upon granting a motion under Crawford County Rule of Criminal Procedure 600(2)(b)(2), the Court will designate as part of its order where such case shall be placed on the chronological criminal list for that particular term of court or what date certain the case will commence. If the Court allows the case to be continued to the next Criminal Term of Court, it shall be placed by the Court Administrator on the "Master Criminal List" pursuant to Cra.R.Crim.P. 600(2)(a)(3).

(4) If a case involves complex issues so that it is not amenable to the normal schedule, any party may, after formal arraignment occurs or is waived, move the Court to remove said case from the "Master Criminal List" so that the flow of the case through the system is handled independently of that procedure.

(5) In the event a case is removed from its designated scheduling cycle originally established on the Criminal Case Scheduling Form (i.e. ARD consideration, omnibus pretrial motion, continuance, cases not reached during a

trial term) and is returned to a scheduling sequence, the Court Administrator shall prepare a new Criminal Case Scheduling Form setting the remaining appropriate dates for the defendant to appear with said assigned dates to be based on a reasonable effort to return the case into the sequence of the system at the point where the case was removed from the sequence or if the case is to be placed in a subsequent term of court, to a normal sequence for that term of court.

The Court Administrator shall distribute copies of the new Criminal Case Scheduling Form to the District Attorney's Office and defense counsel as well as to unrepresented defendants in a manner consistent with the Pennsylvania Rules of Criminal Procedure and the Crawford County Rules of Criminal Procedure.

(3) Call of the Criminal Trial List.

The Call of the Criminal Trial List for a particular Criminal Term of Court shall be held by the Court on the date and time scheduled by the Court Administrator's Office pursuant to Cra.R.Crim.P. 552.

(a) In order to facilitate an organized Call of the Criminal Trial List, defense counsel shall notify the Court Administrator's Office, by noon on the last day the Courthouse is open prior to the Call of Criminal Trial List, of all defendants who are anticipated to enter guilty or *nolo contendere* pleas at the Call of the Criminal Trial List.

(b) All defendants and all attorneys representing defendants for cases on the schedule for that term of criminal court must attend the Call of the Criminal Trial List unless:

(1) A Motion For Continuance has been previously properly presented and granted; or

(2) An Order has been entered by the Court prior to the Call of the Criminal Trial List excusing such appearance.

(c) Failure to comply with the requirements of this Rule may result in the imposition of sanctions by the Court, including the issuance of a bench warrant and revocation of bail bond. Additionally, the District Attorney's Office may file a charge of Default in Required Appearance.

(d) In open court, prior to calling all the names of individuals on the Criminal Trial List, the Court shall announce the day criminal trials begin and that the Thursday before criminal trials begin is the last day to enter a negotiated plea (plea bargain) and the last day to request a trial before a judge, rather than a jury.

The Court Administrator's Office shall, no later than the close of business on the day after the Call of the Trial List, notify the Population Control Manager at the Crawford County Correctional Facility of the names of all defendants whose cases were called at the Call of the Criminal Trial List who are incarcerated in the Crawford County Correctional Facility and did not enter a guilty or *nolo contendere* plea on the day of the Call of the Criminal Trial List. The Population Control Manager at the Crawford County Correctional Facility, or such designated person at that facility, shall show a brief video, provided by the Court, to those incarcerated defendants, which video shall explain to those defendants the negotiated plea and jury trial waiver deadlines as set forth in Cra.R.Crim.P. 552(4).

The person at the Correctional Facility who shows that video to the incarcerated defendants shall have each of those defendants sign "Form 600," acknowledging that they have viewed that video.

The Court Administrator's Office shall provide the necessary prepared acknowledgement forms to the Crawford County Correctional Facility or, alternatively, will provide the deadline date to be inserted in to those forms to the Crawford County Correctional Facility if the forms are already available at that facility.

ACKNOWLEDGEMENT OF NEGOTIATED PLEA
AND
JURY TRIAL WAIVER DEADLINES
IN THE COURT OF COMMON PLEAS OF
CRAWFORD COUNTY, PENNSYLVANIA
CRIMINAL DIVISION

COMMONWEALTH OF
PENNSYLVANIA :
 :
vs. : **No.:**
 : **OTN No.:**
 :

NOTICE TO DEFENDANT

I acknowledge that on the ____ day of _____, 20__ I was shown a video at the Crawford County Correctional Facility advising me that the deadline to enter a negotiated plea and to enter into a Jury Trial Waiver is Thursday, the ____ day of _____, 20__.

_____ **Defendant**

Date: _____

Form 600

Rules 541, Notice Required Following Waiver of Preliminary Hearing and 543, Disposition of Case at Preliminary Hearing are amended only to replace references to former Rule 502 with new Rule 552. Additionally, the Crawford County Local Rules of Criminal Procedure Table of Rules is amended such that Rule 502 no longer appears and Rule 552, Local Scheduling Procedures is added.

[Pa.B. Doc. No. 10-1514. Filed for public inspection August 20, 2010, 9:00 a.m.]

FAYETTE COUNTY

Rule of Civil Procedure 1042 and 212.5; No. 2001 of 2010 6D

Order

And Now, this 30th day of July, 2010, pursuant to Pennsylvania Rule of Civil Procedure 239, it is hereby ordered that Fayette County Local Rule of Civil Procedure 1042 is rescinded, and that Fayette County Local Rule of Civil Procedure 212.5 is hereby adopted to read as follows.

The Prothonotary is directed as follows:

(1) Seven certified copies of the Local Rules shall be filed with the Administrative Office of Pennsylvania Courts.

(2) Two certified copies and diskette of the Local Rules shall be distributed to the Legislative Reference Bureau for publication in the *Pennsylvania Bulletin*.

(3) One certified copy of the Local Rules shall be sent to the State Civil Procedural Rules Committee.

(4) One certified copy shall be sent to the Fayette County Law Library and the Editor of the *Fayette Legal Journal*.

The amendment and adoption of the above listed rules shall become effective thirty (30) days after publication in the *Pennsylvania Bulletin*.

By the Court

GERALD R. SOLOMON,
President Judge

Rule 212.5. Mediation.

(a) *Certification of Mediators.*

(1) The President Judge shall certify as many mediators as determined to be necessary.

(2) All mediators will be members of the Fayette County Bar Association.

(3) An attorney may be certified by the President Judge as a mediator if:

(i) he or she has been a member of the Pennsylvania bar for a minimum of ten (10) years;

(ii) he or she has been admitted to practice before the Fayette County Court of Common Pleas;

(iii) he or she has been referred to the President Judge by the Civil Rules Committee of the Fayette County Bar Association. Notwithstanding such referral, the President Judge may nonetheless certify an attorney as a mediator.

(iv) he or she has been determined by the President Judge to be competent to perform the duties of a mediator;

(v) he or she has professional liability insurance in the minimum amount of a \$300,000.00 single limit policy.

(4) Each individual certified as a mediator shall take the oath or affirmation prescribed by 42 Pa.C.S.A. § 3151 before serving as a mediator.

(5) A list of all persons certified as mediators shall be maintained in the office of the Court Administrator.

(6) A member of the bar certified as a mediator may be removed from the list of certified mediators by the President Judge for any reason.

(b) *Payment of Mediators.*

(1) The parties shall pay the mediator directly. The court assumes no responsibility for the supervision or enforcement of the parties' agreement to pay for mediation services.

(2) Any charges relating to the mediator's services shall be shared equally by the parties.

(3) The mediator shall be paid a mediation fee of one hundred (100.00) dollars by each party to the mediation within twenty (20) days of the order directing mediation. Failure to pay the fee shall result in the cancellation of the mediation and shall subject the offending party to sanctions pursuant to Pa.R.Civ.P. 4019.

(4) Except as provided herein, a mediator shall not accept anything of value from any source for services provided under the court-annexed mediation program.

(c) *Types of Cases Eligible for Mediation.*

Every personal injury, medical or professional malpractice, wrongful death or damage to property action filed in the Fayette County Court of Common Pleas is eligible for mediation, except any case which the assigned judge

determines, after application by any party or by the mediator, is not suitable for mediation.

(d) *Voluntary Mediation.*

The parties to any civil action, with the exception of arbitration and domestic relations/custody cases, may voluntarily submit the case to mediation by filing a joint motion of all parties with the assigned judge.

(e) *Mandatory Mediation.*

The assigned judge may order a case to mandatory mediation at any time. All cases selected for mandatory mediation by the assigned judge, and which are not settled or referred to arbitration, shall be given preference pursuant to Pa.R.Civ.P. 214(2) on the trial list of the assigned judge.

(f) *Mediation Conference Scheduling.*

(1) When the court makes a determination that referral to mediation is appropriate, it shall issue an order referring the case to mediation, appointing the mediator, directing the mediator to establish the date, time and place for the mediation session and setting forth the name, address, and telephone number of the mediator.

Within ten (10) days of his or her assignment, the mediator shall notify all parties and the Court Administrator of the date, time and place of the mediation, which shall be within forty-five (45) days of the assignment.

(2) The mediation session shall be held before a mediator selected by the assigned judge from the list of mediators certified by the President Judge.

(3) The court administrator shall provide the mediator with a current docket sheet.

(4) The mediator shall advise the court administrator as to which documents in the case file the mediator desires copies of for the mediation session. The clerk shall provide the mediator with all requested copies at no charge to the mediator. However, the assigned Judge, in his or her discretion, may require that the parties share in the cost of providing the necessary copies.

(5) Any continuance of the mediation session beyond the period prescribed in the referral order must be approved by the assigned judge.

(6) A person selected as a mediator shall be disqualified for bias or prejudice as if he or she were a district justice or judge. A party may assert the bias or prejudice of an assigned mediator by filing an affidavit with the assigned judge stating that the mediator has a personal bias or prejudice. The judge may, in his or her discretion, end alternative dispute resolution efforts, refer the case to another mediator, refer the case back to the original mediator or initiate another alternative dispute resolution mechanism.

(g) *The Mediation Session and Confidentiality of Mediation Communications.*

(1) The mediation session shall take place as directed by the court and the assigned mediator. The mediation session shall take place in a neutral setting designated by the mediator.

(2) The parties shall not contact or forward documents to the mediator except as directed by the mediator or the court.

(3) At least ten (10) days prior to the Mediation, the parties and/or their attorneys shall be required to prepare and submit a Confidential Position Paper disclosed only to the mediator in the format attached or as modified by

the mediator or the assigned judge. The Confidential position paper shall not become a part of the court record and shall be destroyed at the conclusion of the mediation.

(4) If the mediator determines that no settlement is likely to result from the mediation session, the mediator shall terminate the session and promptly thereafter file a report with the assigned Judge stating that there has been compliance with the requirements of mediation in accordance with the local rules, but that no settlement has been reached.

(5) In the event that a settlement is achieved at the mediation session, the mediator shall file a report with the assigned Judge stating that a settlement has been achieved. The order of referral may direct the mediator to file the report in a specific form.

(6) Unless stipulated in writing by all parties and the mediator or except as required by law or otherwise ordered by the court, all discussions which occur during mediation shall remain strictly confidential and no communication at any mediation session (including, without limitation, any verbal, nonverbal or written communication which refers to or relates to mediation of the pending litigation) shall be disclosed to any person not involved in the mediation process, and no aspect of the mediation session shall be used by anyone for any reason.

(7) No one shall have a recording or transcript made of the mediation session, including the mediator.

(8) The mediator shall not be called to testify as to what transpired in the mediation.

(9) Prior to the beginning of the mediation, all parties and their attorneys shall be required to sign a form developed by the Court wherein the parties agree:

(i) to the terms of the mediation; and

(ii) to waive any professional liability claims that they might assert against the mediator, the assigned Judge, the Court of Common Pleas of the 14th Judicial District, or Fayette County, as a result of their participation in the mediation process.

(h) *Duties of Participants at the Mediation Session.*

(1) *Parties.* All named parties and their counsel are required to attend the mediation session, participate in good faith and be prepared to discuss all liability issues, all defenses and all possible remedies, including monetary and equitable relief. Those in attendance shall possess complete settlement authority, independent of any approval process or supervision, except as set forth in subparagraphs (A) and (B) below.

Unless attendance is excused, willful failure to attend the mediation session will be reported by the mediator to the court and may result in the imposition of sanctions pursuant to Pa.R.Civ.P. 4019.

(A) *Corporation or Other Entity.* A party other than a natural person (e.g., a corporation or association) satisfies this attendance requirement if represented by a person (other than outside counsel) who either has authority to settle or who is knowledgeable about the facts of the case, the entity's position, and the policies and procedures under which the entity decides whether to accept proposed settlements.

(B) *Government Entity.* A unit or agency of government satisfies this attendance requirement if represented by a person who either has authority to settle or who is knowledgeable about the facts of the case, the government unit's position, and the policies and procedures under which the governmental unit decides whether to

accept proposed settlements. If the action is brought by or defended by the government on behalf of one or more individuals, at least one such individual also shall attend.

(2) *Counsel.* Each party shall be accompanied at the mediation session by the attorney who will be primarily responsible for handling the trial of the matter.

(3) *Insurers.* Insurer representatives are required to attend in person unless excused, if their agreement would be necessary to achieve a settlement. Insurer representatives shall possess complete settlement authority, independent of any approval process or supervision.

(4) *Request to be Excused.* A person who is required to attend a mediation session may be excused from attending in person only after a showing that personal attendance would impose an extraordinary or otherwise unjustifiable hardship. A person seeking to be excused must submit, no fewer than ten (10) days before the date set for the mediation, a written request to the mediator, simultaneously copying all counsel. The written request shall set forth all considerations that support the request and shall indicate whether the other party or parties join in or object to the request. A proposed order prepared for the signature of the Judge shall be submitted to the mediator with the request. The mediator shall promptly consider the request and shall submit the proposed order to the Judge with a recommendation that the request be granted or denied. In the absence of an order excusing attendance, the person must attend.

Where an individual requests to be excused from personal participation at the mediation, a preference shall be given to attending by telephone at the expense of the excused party rather than complete excusal from the mediation.

(i) *Mediator's Report.*

Within fifteen (15) days of the mediation, the mediator shall send to the assigned judge a mediation report which shall advise that court whether the case has settled. If not, the mediation report shall set forth the following:

- (1) plaintiff's final settlement demand;
- (2) defendant's final settlement offer;
- (3) Mediator's assessment of liability;
- (4) Mediator's assessment of damages;
- (5) Mediator's opinion regarding potential range of verdict and settlement value of case; and
- (6) Mediator's recommendation regarding settlement of case.

The mediator shall provide all parties and the Court Administrator with a copy of the mediation report.

Appendix A: Form for Confidential Position Paper
Confidential Position Paper

Case Caption:

Docket #:

Assigned Judge:

Date of Report:

A. Summary of Critical Facts

B. Insurance Coverage

C. Prior demands and offers of settlement

D. Issues that may Assist the Mediator, with citations

E. Medical and Expert reports

F. Itemized list of damages

G. succinct statement of position regarding liability and damages

[Pa.B. Doc. No. 10-1515. Filed for public inspection August 20, 2010, 9:00 a.m.]

LUZERNE COUNTY

Juvenile Restitution Fund; No. 704 MD 2009

Administrative Order No. 3 of 2010

And Now, this 6th day of August, 2010, the Honorable Thomas F. Burke, Jr., President Judge of Luzerne County, Pennsylvania, serving the Eleventh Judicial District of Pennsylvania, hereby reauthorizes the creation of the Luzerne County Juvenile Court Restitution Fund and hereby amends and restates the previous Orders dated June 25, 2009 and January 2, 2009 of the former President Judges as stated herein. The statutory authority for the creation of this Fund appears at 42 Pa.C.S. Section 6352(a)(5), The Juvenile Act, Disposition of Delinquent Children.

The purpose of the Fund is to provide a means whereby the Court may:

- a) direct children under its supervision to pay a reasonable amount of money into a common fund;
- b) collect the previously-mentioned revenues and deposit same into an appropriate account that is under the supervision of the Court or its designee;
- c) distribute monies received by the Fund to victims of delinquent behavior in a fair and equitable manner.

The period January 2, 2009 to June 30, 2009, shall constitute the origination period of the program. The balance shall be reviewed by the Juvenile Restitution Fund Development Committee and if deemed adequate, withdrawals from the account will begin July 1, 2009. If the balance is not deemed adequate to begin withdrawals, an extension period of 3 months, from July 1, 2009 to September 30, 2009 will be granted to increase the fund balance. Withdrawals would then commence on October 1, 2009. Thereafter, the program shall be reviewed quarterly by the Juvenile Restitution Fund Development Committee to determine if changes need to be made to any of the procedures or policies. Data collected during the first three months of disbursement shall be reviewed by above committee to determine the effectiveness of the program.

In accordance with the above, effective January 2, 2009, the monetary limits of liability § 5505 shall be imposed on all parents whose juvenile owes restitution (see The Juvenile Act, Appendix I). Furthermore, the Court hereby adopts and approves the attached guidelines and operating standards for use by the Juvenile Court of Luzerne County, Pennsylvania and the Luzerne County Department of Probation Services, Juvenile Division, as the "Luzerne County Juvenile Court Restitution Fund."

The Luzerne County District Court Administrator is *Ordered* and *Directed* to do the following:

1. File seven (7) certified copies of this Administrative Order with the Administrative Office of Pennsylvania Courts.
2. File two (2) certified copies and one (1) diskette with the Legislative Reference Bureau for publication in the *Pennsylvania Bulletin*.

3. File one (1) certified copy with the Pennsylvania Juvenile Court Procedural Rules Committee.

4. Forward one (1) copy for publication in the *Luzerne Legal Register*.

5. Forward one (1) copy to the Wilkes-Barre Law and Library Association.

6. Keep continuously available for public inspection copies of this Administrative Order in the Office of Court Administration, Clerk of Court's Office and Juvenile Probation Department.

This Order shall also be published on the web site of the Administrative Office of Pennsylvania Courts (www.aopc.org) as well as Unified Judicial System's web site at <http://ujportal.pacourts.us/localrules.ruleselection.aspx>.

By the Court

THOMAS F. BURKE, Jr.,
President Judge

Administrative Order No. 3 of 2010

Luzerne County Juvenile Court Restitution Fund Operating Guidelines

The Court of Common Pleas of Luzerne County, Pennsylvania (Court), through the Luzerne County Department of Probation Service, Juvenile Division, (Probation) shall establish the Luzerne County Juvenile Court Restitution Fund (Fund) for the purpose of providing financial reimbursement to the victims of delinquent behavior as defined in The Juvenile Act.

The Probation Services Department shall be responsible for establishing, monitoring, maintaining and auditing the Fund in accordance with the Fund Operating Guidelines and Standards and accepted accounting practices and principles.

Name

The name of the Fund will be the "Juvenile Court Restitution Fund." For clarity purposes, when referring to the Fund on documents such as an Informal Adjustment Consent, Consent Decree, an order issued by the Court, rules and conditions of probation, and all financial documents including restitution documents, judgments, etc., the Fund will be referred to as the JCR Fund.

Eligibility

For the purpose of the Fund, eligibility shall be defined as follows:

Eligible Benefactor (Juvenile)—An eligible benefactor of the Fund will be any child who is under the jurisdiction of the Court through the Probation Services Department on or after the effective start date of the Fund and whose disposition, as rendered by the Court or Probation Services Department, requires the child to pay restitution to a victim of a delinquent act. Requirements are as follows:

- 10 to 15 years old;
- juveniles (ages 16-18) who demonstrate an inability to obtain/maintain employment to be considered on a case-by-case basis;
- referred to the Probation Services Department, Juvenile Division;
- owe restitution for a property crime or a crime against person;
- resident of Luzerne County;

- juveniles may earn up to a maximum of \$1,000.00 in the program, regardless of the number of victims involved. Juveniles may not exceed the maximum disbursement per calendar year.

Eligible Recipient (Victim)—An eligible recipient of the Fund will be any person who has a legitimate restitution claim on file with the Probation Services Department on or after the effective start date of the Fund resulting from the delinquent act(s) of an Eligible Benefactor. Insurance companies will not be considered eligible recipients for purposes of inclusion in this program. Businesses and schools can only submit for reimbursement for a deductible incurred as a result of a delinquent act by a juvenile. Requirements are as follows:

- All direct victims of property crime, for which a written allegation to the Probation Services Department has been filed. (Victims of personal injury crime must file a crime victim compensation claim to cover incurred costs with the Pennsylvania Crime Victims' Compensation Board. If ineligible, they will be included in this program.)
- Must be a resident of Luzerne County.

Fund Revenue

On and after the effective date of the creation of the Fund, it will be supported financially in the following manner:

a) The Probation Services Department shall assess a fee in the amount of \$25.00 to all juveniles who are subject to proceedings whose case results in a final disposition of warned, counseled, case closed; an Informal Adjustment Consent; Consent Decree, or adjudication of delinquency and make check or money order payable to the Luzerne County Treasurer.

b) All juveniles referred for Failure to Pay Fine received from a District Justice shall be assessed the \$25.00 JRF fee and make check or money order payable to the Luzerne County Treasurer. Juveniles may be directed to pay the fine in full or ordered to complete community service hours in lieu of the fine payment.

c) The Court, at its discretion or upon the recommendation of the Probation Services Department, will make other sources of revenue payable to the Fund as the same become available.

Fund Management

The Fund receipts and expenditures shall be managed by the Probation Services Department. Any and all funds received by the Probation Services Department that may be considered revenue for the Fund shall be deposited into an account separate and apart from other accounts managed by the Probation Services Department. The sole purpose of this account will be to receive and disperse funds associated with the JCR Fund. As of the creation date of the Fund, the account(s) used by the Probation department is/are:

PNC Bank
11 West Market Street
Wilkes-Barre, PA 18701
Acct. # XXXXX-4435

All Fund revenues shall be receipted, recorded, deposited and otherwise handled as any other revenue received by the Probation Services Department for the intended purpose of reimbursing victims of delinquent behavior.

Additionally, expenditures made from the Fund shall be forwarded to eligible recipients by checks issued from the

above-mentioned checking account on an as-needed basis through the Luzerne County Treasurer.

All payments to and expenditures from the above-mentioned account shall be subject to an audit performed on an annual basis by the designee of the Luzerne County Treasurer as per the request of the Deputy-Chief Juvenile Probation Officer or his/her designee.

Review Committee

An administrative review team has been established. The review team shall consist of a Supervisor, the Community Liaison Probation Officer (or designee) and the assigned Probation Officer. This team will meet as needed and shall review requests made by the eligible benefactors requesting benefits from the Fund.

Fund Expenditures

Eligible benefactors of the Fund will be able to request assistance from the Fund in the following manner:

a) The Court or Probation Services Department shall prepare an application form for eligible benefactors to utilize in order to request assistance from the Fund. The application shall include the following information:

1) Probation Clients:

i) Descriptive information about the child including name, DOB, type of supervision, length of supervision.

ii) A statement as to the child's overall adjustment while under supervision, addressing behavior at home, school, and in the community.

iii) A statement as to the balance of restitution owed by the child.

iv) Verification that the parental liability has been satisfied.

2) JPO Fine Program Participants:

i) Descriptive information about the child including name, DOB.

ii) Fine program agreement.

iii) A statement as to the balance of restitution owed by the child.

b) The applicant's Probation Officer shall assist the child with completion of the application and shall forward the same to the Review Committee.

c) The Review Committee shall review the applicant's eligibility and recommend the level of expenditure and the number of community service hours in exchange for the expenditure, if any, to be made on behalf of the applicant.

d) Upon receipt of the completed community service requirement, the Review Committee will authorize the amount to be expended from the Fund and credited to the applicant's/benefactor's restitution account. The Probation Services Department will then disburse payments to all applicant's victims in a proportionate share.

e) Payments disbursed from the fund will be made on a first come, first served basis and will be made in the full amount authorized by the Review Committee.

f) The Probation Services Department shall be prohibited from disburse payments from the Fund in excess of the Fund case reserves plus \$100.00.

g) Disbursements from the Fund shall require the signatures of a probation services administrator and a member of the administrative review team.

Maximum Disbursement

The maximum amount that may be disbursed from the Fund on behalf of any single child per 12 month period will be \$1,000.00.

Fund Balance

The Fund shall maintain a minimum balance of \$100.00 at all times.

Annual Report

The Luzerne County Department of Probation Services shall provide an annual report to the President Judge at the conclusion of each calendar year detailing the aggregate and individual data regarding payments to and disbursements from the Restitution Fund.

Suspension Activity

The Court or Juvenile Restitution Fund Development Committee shall have the authority to suspend any and all activities associated with the Fund.

Audit Requirement

The fund shall be subject to an audit by the designee of the Luzerne County Treasurer's office on an annual basis.

[Pa.B. Doc. No. 10-1516. Filed for public inspection August 20, 2010, 9:00 a.m.]

VENANGO COUNTY

Public Access Policy of The Unified Judicial System of Pennsylvania; Official Case Records of the Magisterial District Courts; Doc. No. CIV 1136-2010

Amended Order

And Now, this 11th day of August, 2010, in accordance with the Judicial Code, 42 Pa.C.S. Section 4301(b), and pursuant to the *Public Access Policy of the Unified Judicial System of Pennsylvania: Official Case Records of the Magisterial District Courts* adopted by the Pennsylvania Supreme Court effective July 1, 2010, it is hereby *Ordered* that the following procedures shall be utilized to ensure a policy is in place to govern public access to the records of the Magisterial District Courts of the 28th Judicial District. This policy supplants the former procedures originally adopted in 1994, *Public Access Policy of the Unified Judicial System of Pennsylvania: Magisterial District Judge Records* found at 204 Pa. Code Section 213.1 et seq.

It is further *Ordered* that the District Court Administrator shall send seven (7) certified copies of this Order to be filed with the Administrative Office of the Pennsylvania Courts; two (2) certified copies and one (1) diskette to be filed with the Legislative Reference Bureau for publication in the *Pennsylvania Bulletin*; and one (1) certified copy to be filed with the Civil Procedural Rules Committee of the Supreme Court of Pennsylvania.

1. Public Access Request

(a) Verbal requests for records shall be filled within seventy-two (72) hours, excluding non-business days.

(b) Information sealed pursuant to court order, restricted by law or court rule, and the court's notes, drafts and work product are not accessible to the public.

(c) Magisterial district courts have the discretion to require that a "complex or voluminous" request be submitted in writing on a form supplied by AOPC. Exactly what is "complex or voluminous" may vary from court to court depending on factors such as court resources and case load.

Said requests for "complex or voluminous" records shall be filled within ten (10) business days of receipt of completed request form, if said form is required by the Court.

(d) All denials for record requests must be issued in writing. The requestor can appeal the denial to the Central Court Administrator, Venango County Court House, 1168 Liberty Street, P. O. Box 831, Franklin, PA 16323, in writing, within fifteen (15) business days of service of the written notification by the magisterial district court.

2. Fee Schedule

(a) Copying—\$.25 per page

(b) Preparing, copying, and refilling requested court documents—\$5.00 per 1/4 hour with a minimum of 1/4 hour.

(c) Estimated costs must be pre-paid.

(e) Fees paid for services are non-refundable.

3. The rule is effective thirty (30) days from the date of publication in the *Pennsylvania Bulletin*.

By the Court

OLIVER J. LOBAUGH,
President Judge

[Pa.B. Doc. No. 10-1517. Filed for public inspection August 20, 2010, 9:00 a.m.]

DISCIPLINARY BOARD OF THE SUPREME COURT

Notice of Hearing

A Petition for Reinstatement to the active practice of law has been filed by Thomas Joseph Coleman, III and will be the subject of a hearing on September 23, 2010, before a hearing committee designated by the Disciplinary Board of the Supreme Court (Board). Anyone wishing to be heard in reference to this matter should contact the District II Office of the Disciplinary Board of the Supreme Court of Pennsylvania, Suite 170, 820 Adams Avenue, Trooper, PA 19403, (610) 650-8210, on or before September 10, 2010. In accordance with Board Rule § 89.274(b), since this formerly admitted attorney resides outside of the Commonwealth of Pennsylvania, this notice is published in the *Pennsylvania Bulletin*.

ELAINE M. BIXLER,
Secretary
*The Disciplinary Board of the
Supreme Court of Pennsylvania*

[Pa.B. Doc. No. 10-1518. Filed for public inspection August 20, 2010, 9:00 a.m.]