

# THE COURTS

## Title 210—APPELLATE PROCEDURE

### PART I. RULES OF APPELLATE PROCEDURE

[ 210 PA. CODE CHS. 3, 9, 11 AND 21 ]

#### Proposed Amendments to Pa.R.A.P. 341, 902, 1112, 1115, 2116 and 2119

The Appellate Court Procedural Rules Committee proposes to recommend amendment to the notes of Pa.R.A.P. 341, 902, 1112, 1115, 2116, and 2119. This proposal is being submitted for public comments, suggestions and concerns prior to submission to the Supreme Court.

Proposed new material is in bold face type and deleted material is bracketed and in bold face type.

All communications in reference to the proposed amendment should be sent no later than July 22, 2013 to:

Appellate Court Procedural Rules Committee  
Pennsylvania Judicial Center  
601 Commonwealth Ave., Suite 6200  
P. O. Box 62635  
Harrisburg, Pennsylvania 17106-2635  
or Fax to  
(717) 231-9551  
or E-Mail to  
appellaterules@pacourts.us

An Explanatory Comment precedes the proposed amendment and has been inserted by this Committee for the convenience of the bench and bar. It will not constitute part of the rule nor will it be officially adopted or promulgated.

*By the Appellate Court  
Procedural Rules Committee*

HONORABLE RENÉE COHN JUBELIRER,  
*Chair*

#### Annex A

### TITLE 210. APPELLATE PROCEDURE

#### PART I. RULES OF APPELLATE PROCEDURE

##### ARTICLE I. PRELIMINARY PROVISIONS

##### CHAPTER 3. ORDERS FROM WHICH APPEALS MAY BE TAKEN

##### FINAL ORDERS

##### Rule 341. Final Order; Generally.

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**Official Note: Related Constitutional and Statutory Provisions**—Section 9 of Article V of the Constitution of Pennsylvania provides that “there shall be a right of appeal from a court of record or to an appellate court.” The term “administrative agency” is not defined in Rule 102 of these rules and as used in this rule is intended to have the same meaning as the term “administrative agency” in Section 9 of Article V of the Constitution of Pennsylvania. The constitutional provision is implemented by 2 Pa.C.S. § 702 (appeals), 2 Pa.C.S. § 752 (appeals), and 42 Pa.C.S. § 5105 (right to appellate review).

[ *Criminal Law Proceedings—Discretionary Aspects of Sentencing*—Section 9781 of the Sentencing

Code (42 Pa.C.S. § 9781) states that the defendant or the Commonwealth may “petition for allowance of appeal” of the discretionary aspects of a sentence for a felony or a misdemeanor. The practice under these rules is to file a notice of appeal. See note to Rule 902 (manner of taking appeal). If the defendant has a right to an appeal with respect to the discretionary aspects of a sentence, the appellate court must, of course, entertain the appeal. Otherwise, such an appeal may be entertained by an appellate court if, but only if, it appears to the court that there is a substantial question that the sentence imposed is not appropriate under the applicable guidelines. ]

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### ARTICLE II. APPELLATE PROCEDURE

#### CHAPTER 9. APPEALS FROM LOWER COURTS

##### Rule 902. Manner of Taking Appeal.

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**Official Note:** 42 Pa.C.S. § 703 (place and form of filing appeals) provides that appeals, petitions for review, petitions for permission to appeal and petitions for allowance of appeal shall be filed in such office and in such form as may be prescribed by general rule.

\* \* \* \* \*

Section 9781 of the Sentencing Code (42 Pa.C.S. § 9781) provides that the defendant or the Commonwealth may file a “petition for allowance of appeal” of the discretionary aspects of a sentence for a felony or a misdemeanor. The notice of appeal under this chapter (*see* [ **Rule 904 (content of the notice of appeal)** ] Pa.R.A.P. 904), in conjunction with the requirements set forth in Pa.R.A.P. 2116(b) and 2119(f), operates as the “petition for allowance of appeal” under the Sentencing Code. [ **It automatically raises all possible questions under 42 Pa.C.S. § 9781 and is available and appropriate even where no issue relating to guilt or the legality of the sentence (in the sense that the sentence falls outside of the range of discretion vested by law in the sentencing court) is presented.** ] No additional wording is required or appropriate in the notice of appeal. *See* Pa.R.A.P. 2116(b) and the note thereto; Pa.R.A.P. 2119(f) and the note thereto. Although 42 Pa.C.S. § 9781(f) limits appeals to “the appellate court that has initial jurisdiction for such appeals” the Supreme Court may review “the application of legal principles, including the issue of whether a lower court exceeded its standard of review in supplanting the sentencing court’s discretion.” *Commonwealth v. Perry*, 32 A.3d 232, 236 n.10 (Pa. 2011).

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#### CHAPTER 11. APPEALS FROM COMMONWEALTH COURT AND SUPERIOR COURT

##### PETITION FOR ALLOWANCE OF APPEAL

##### Rule 1112. Appeals by Allowance.

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**Official Note:** Based on 42 Pa.C.S. § 724(a) (allowance of appeals from Superior and Commonwealth Courts). The notation on the docket by the Prothonotary

of the Superior Court or Commonwealth Court of the filing of a petition for allowance of appeal renders universal the rule that the appeal status of any order may be discovered by examining the docket of the court in which it was entered.

\* \* \* \* \*

[ With regard to subdivision (f) and withdrawal of appearance without leave of the appellate court, counsel may nonetheless be subject to trial court supervision pursuant to Pa.R.Crim.P. 904 (Entry of Appearance and Appointment of Counsel; *In Forma Pauperis*). ]

With respect to appearances by new counsel following the initial docketing of appearances pursuant to [ Subdivision ] paragraph (f) of this rule, please note the requirements of Rule [ 1200 ] 120.

Where an appellant desires to challenge the discretionary aspects of a sentence of a trial court the “petition for allowance of appeal” is deferred until the briefing stage, and the appeal is commenced by filing a notice of appeal pursuant to Chapter 9 rather than a petition for allowance of appeal pursuant to Chapter 11. See note to Pa.R.A.P. 902; note to Pa.R.A.P. 1115; Pa.R.A.P. 2116(b) and the note thereto; Pa.R.A.P. 2119(f) and the note thereto.

**Rule 1115. Content of the Petition for Allowance of Appeal.**

\* \* \* \* \*

**Official Note:** Former Supreme Court Rule 62 permitted the petitioner in effect to dump an undigested mass of material (i.e., briefs in and opinions of the court below) in the lap of the Supreme Court, with the burden on the individual justices and their law clerks to winnow the wheat from the chaff. This rule, which is patterned after U.S. Supreme Court Rule 23, places the burden on the petitioner to prepare a succinct and coherent presentation of the case and the reasons in support of allowance of appeal.

Where an appellant desires to challenge the discretionary aspects of a sentence of a trial court [ no “petition for allowance of appeal,” as that term is used in these rules, may be filed and the practice is governed by Chapter 9 (appeals from lower courts) ] the “petition for allowance of appeal” is deferred until the briefing stage, and the appeal is commenced by filing a notice of appeal pursuant to Chapter 9 rather than a petition for allowance of appeal pursuant to Chapter 11. *Commonwealth v. Tuladeziecki*, 522 A.2d 17, 18 (Pa. 1987). See note to [ Rule 902 (manner of taking appeal) ] Pa.R.A.P. 902; note to Pa.R.A.P. 1112; Pa.R.A.P. 2116(b) and the note thereto; Pa.R.A.P. 2119(f) and the note thereto.

**CHAPTER 21. BRIEFS AND REPRODUCED RECORD**

**CONTENT OF BRIEFS**

**Rule 2116. Statement of Questions Involved.**

\* \* \* \* \*

(b) *Discretionary aspects of sentence.*—An appellant who challenges the discretionary aspects of a sentence in a criminal matter shall include any questions relating to the discretionary aspects of the sentence imposed (but not the issue whether the appellate court should exercise its discretion to reach such question) in the statement re-

quired by [ Subdivision ] paragraph (a). Failure to comply with this [ subdivision ] paragraph shall constitute a waiver of all issues relating to the discretionary aspects of sentence.

**Official Note:** In conjunction with 2013 amendments to Rules 2135 (length of briefs) and 2140 (brief on remand or following grant of reargument or reconsideration) adopting an optional word limit in lieu of page limits, the 2013 amendment eliminated the page limit for the statement of questions involved. The word count does, however, include the statement of questions, and a party should draft the statement of questions involved accordingly, with sufficient specificity to enable the reviewing court to readily identify the issues to be resolved while incorporating only those details that are relevant to disposition of the issues. Although the page limit on the statement of questions involved was eliminated in 2013, verbosity continues to be discouraged. The appellate courts strongly disfavor a statement that is not concise.

The requirement set forth in Pa.R.A.P. 2116(b) is part of the procedure set forth by the Supreme Court to implement the standard set forth in 42 Pa.C.S. § 9781(b). *Commonwealth v. Tuladeziecki*, 522 A.2d 17, 18 (Pa. 1987). See note to Pa.R.A.P. 902; note to Pa.R.A.P. 1112; note to Pa.R.A.P. 1115; and Pa.R.A.P. 2119(f) and the note thereto.

**Rule 2119. Argument.**

\* \* \* \* \*

(f) *Discretionary aspects of sentence.*—An appellant who challenges the discretionary aspects of a sentence in a criminal matter shall set forth in his brief a concise statement of the reasons relied upon for allowance of appeal with respect to the discretionary aspects of a sentence. The statement shall immediately precede the argument on the merits with respect to the discretionary aspects of the sentence.

**Official Note:** Based on former Supreme Court Rule 55, former Superior Court Rule 45 and former Commonwealth Court Rule 95. The requirement for parallel citation to the Atlantic Reporter is extended to the Supreme Court and the Commonwealth Court and the related certificate of nonpublication in the official reports has been omitted. The requirement of former Superior Court Rule 45 that a party print in bold face up to three citations under each head chiefly relied upon, has been omitted. Counsel having available the Atlantic Reporter can readily obtain the official citation from cross-reference sheets ordinarily pasted on the flyleaf of each Atlantic Reporter volume; counsel having the official reports available can obtain the Atlantic Reporter citation from cross-references available in *Shepard’s Pennsylvania Citations—Case Edition* or the *National Reporter Blue Book*.

[ In some circumstances an appellant may have a right to appellate review of the discretionary aspects of a sentence. See note to Rule 341 (final orders generally). In such cases a citation to the controlling authority will suffice for purposes of Subdivision (f). ]

Where a challenge is raised to the discretionary aspects of sentencing, the “petition for allowance of appeal” specified in 42 Pa.C.S. § 9781 is deferred until the briefing stage, and the appeal is commenced by filing a notice of appeal pursuant to Chapter 9 rather than a petition for allowance of appeal pursuant to Chapter 11. In order to assert a challenge to the discretionary aspects of a sen-

tence, the issue must first be raised at the sentencing hearing or in a motion to modify the sentence imposed at the hearing and, in accordance with the provisions of this rule, the appellant (whether the Commonwealth or the defendant) must set forth clear reasons why the sentence was not consistent with the Sentencing Code and must do so in compliance with the requirements of this rule and Pa.R.A.P. 2116(b). *Commonwealth v. Anderson*, 830 A.2d 1013, 1016 (Pa. Super. 2003). If the appellant complies with these rules, the court will determine whether there is a substantial question as to the sentence imposed. *Commonwealth v. Tuladziecki*, 522 A.2d 17, 18 (Pa. 1987). If these rules are not complied with and the opposing party fails to object to the procedural defect, the court may likewise determine for itself whether a substantial question has been presented. *Commonwealth v. Bailey*, 534 A.2d 829 (Pa. Super. 1987); *Commonwealth v. Gambal*, 561 A.2d 710 (Pa. 1989). If these rules are not complied with and the opposing party raises the procedural defect, the court will not reach the merits of the challenge to the discretionary aspects of sentence on appeal. *Tuladziecki*, 522 A.2d at 18.

#### Explanatory Comment

##### *Discretionary Aspects of Sentence*

Although a challenge to the legality of a sentence cannot be waived, a challenge to the discretionary aspects of a sentence can. Moreover, review of the discretionary aspects of a sentence are limited by statute in two ways.

First, even when objections have been preserved, the appellate court (generally Superior Court)<sup>1</sup> undertakes a threshold analysis (referred to in the statute as a petition for allowance of appeal). The appellant—whether the defendant or the Commonwealth—does not file a separate petition, however; instead, the challenge is raised in a separate section of the merits brief. See 42 Pa.C.S. § 9781(b); *Commonwealth v. Childs*, 664 A.2d 994, 996 (Pa. Super. 1995). Failure to comply with the requirements to set forth the basis for the court's review in a separate section of the brief necessarily waives the challenge to the discretionary aspects of the sentence, if the opposing party raises the procedural defect, and may waive it even if the opposing party fails to raise the procedural defect. Because challenges to the legality of a sentence are not foreclosed, regardless of the extent of preservation, there are several cases in which persons have sought to characterize an issue as relating to "legality" rather than discretion, but the Supreme Court has cautioned that persons should file post-sentence motions and Rule 2119(f) statements for all sentencing claims. See *Commonwealth v. Foster*, 17 A.3d 332, 345 n.20 (Pa. 2011). Indeed, the only categories of challenges that the Court has recognized as challenges to the legality of a sentence are those in which a court's authority to use discretion has been constrained or those in which the sentence imposed is patently inconsistent with the parameters set forth by the General Assembly. *Id.* at 342. These include challenges under *Apprendi*, merger, double jeopardy, and sentencing outside a minimum or maximum. *Id.* at 338, 342.

Second, the statute permits only one level of review. Nonetheless, the Supreme Court has recognized that the statutory limitation does not preclude it from reviewing

<sup>1</sup>In *Commonwealth v. Mouzon*, 912 A.2d 617 (Pa. 2002), the Supreme Court explained that when a capital defendant appeals to the Supreme Court, the Supreme Court considers all questions relating to lesser sentences as well, including challenges to the discretionary aspects of a sentence. *Id.* at 622.

"the application of legal principles, including the issue of whether a lower court exceeded its standard of review in supplanting the sentencing court's discretion." *Commonwealth v. Perry*, 32 A.3d 232, 236 n.10 (Pa. 2011), although there have been multiple cases in which the dissent raised a concern that such review was contrary to 42 Pa.C.S. § 9781.

The appellate rules had not been updated in this area in quite some time, and there is concern that leaving only the old citations in the notes could be confusing to practitioners and may be outdated. As a result, the Appellate Court Procedural Rules Committee appointed a subcommittee to study the issue, and now proposes the following Recommendation.

[Pa.B. Doc. No. 13-1024. Filed for public inspection June 7, 2013, 9:00 a.m.]

## PART I. RULES OF APPELLATE PROCEDURE [ 210 PA. CODE CH. 19 ] Proposed Amendment to Pa.R.A.P. 1941

The Appellate Court Procedural Rules Committee proposes to recommend amendment of Pa.R.A.P. 1941. This proposal is being submitted for public comments, suggestions, and concerns prior to submission to the Supreme Court.

Proposed new material is in bold face type and deleted material is bracketed and in bold face type.

All communications in reference to the proposed amendment should be sent no later than July 22, 2013 to:

Appellate Court Procedural Rules Committee  
Pennsylvania Judicial Center  
601 Commonwealth Ave., Suite 6200  
P. O. Box 62635  
Harrisburg, Pennsylvania 17106-2635  
or Fax to  
(717) 231-9551  
or E-Mail to  
appellaterules@pacourts.us

An Explanatory Comment precedes the proposed amendment and has been inserted by this Committee for the convenience of the bench and bar. It will not constitute part of the rule nor will it be officially adopted or promulgated.

*By the Appellate Court  
Procedural Rules Committee*

HONORABLE RENÉE COHN JUBELIRER,  
*Chair*

### Annex A TITLE 210. APPELLATE PROCEDURE PART I. RULES OF APPELLATE PROCEDURE ARTICLE II. APPELLATE PROCEDURE CHAPTER 19. PREPARATION AND TRANSMISSION OF RECORD AND RELATED MATTERS

#### REVIEW OF DEATH SENTENCES

Rule 1941. Review of **Sufficiency of the Evidence in Death Sentences.**

(a) *Procedure in trial court.*—Upon the entry of a sentence subject to 42 Pa.C.S. § 9711(h) (review of death

sentence) the court shall direct the official court reporter and the clerk to proceed under this chapter as if a notice of appeal had been filed 20 days after the date of entry of the sentence of death, and the clerk shall immediately give written notice of the entry of the sentence to the Administrative Office and to the Supreme Court [ **Prothonotary's Office** ] **prothonotary's office**. The clerk shall insert at the head of the list of documents required by [ **Rule** ] Pa.R.A.P. 1931(c) [ **(duty of clerk to transmit the record)** ] a statement to the effect that the papers are transmitted under this rule from a sentence of death.

(b) *Filing and docketing in the Supreme Court.*—Upon receipt by the [ **Prothonotary** ] **prothonotary** of the Supreme Court of the record of a matter subject to this rule, the [ **Prothonotary** ] **prothonotary** shall immediately:

[ (1) ] **1.** Enter the matter upon the docket as an appeal, with the defendant indicated as the appellant and the Commonwealth indicated as the appellee.

[ (2) ] **2.** File the record in the Supreme Court.

[ (3) ] **3.** Give written notice of the docket number assignment in person or by first class mail to the clerk of the [ **lower** ] **trial court**.

[ (4) ] **4.** Give notice to all parties and the Administrative Office of the docket number assignment and the date on which the record was filed in the Supreme Court, and [ **shall** ] give notice to all parties of the date, if any, specially fixed by the [ **Prothonotary** ] **prothonotary** pursuant to [ **Rule** ] Pa.R.A.P. 2185(b) [ **(notice of deferred briefing schedule)** ] for the filing of the brief of the appellant.

(c) *Further proceedings.*—Except as required by [ **Rule** ] Pa.R.A.P. 2189 or by statute, a matter subject to this rule shall proceed after docketing in the same manner as other appeals in the Supreme Court.

**Official Note:** [ Formerly the act of February 15, 1870 (P. L. 15, No. 6) required the appellate court to review the sufficiency of the evidence in certain homicide cases regardless of the failure of the appellant to challenge the matter. *See, e.g. Commonwealth v. Santiago*, 476 Pa. 340, 382 A.2d 1200 (1978). Rule 302 (requisites for reviewable issue) now provides otherwise with respect to homicide cases generally. However, under Subdivision (c) of this rule the procedure for automatic review of capital cases provided by 42 Pa.C.S. § 9711(h) (review of death sentence) will permit an independent review of the sufficiency of the evidence in such cases. ] In capital cases, the Supreme Court has jurisdiction to hear a direct appeal and will automatically review (1) the sufficiency of the evidence “to sustain a conviction for first-degree murder in every case in which the death penalty has been imposed;” (2) the sufficiency of the evidence to support the finding of at least one aggravating circumstance set forth in 42 Pa.C.S. § 9711(d); and (3) the imposition of the sentence of death to ensure that it was not the product of passion, prejudice, or any other arbitrary factor. *Commonwealth v. Mitchell*, 902 A.2d 430, 444, 468 (Pa. 2005); 42 Pa.C.S. § 722; 42 Pa.C.S. § 9711(h)(1), (3). Any other challenges to the proceedings that resulted in the sentence of death may

only be reviewed if they have been preserved and if the defendant files a timely notice of appeal. *See Commonwealth v. Dick*, 978 A.2d 956, 958-59 (Pa. 2009) (“However, as appellant did not timely file his appeal, any claims unassociated with the statutorily-mandated review of the sufficiency of the evidence have not been previously raised or preserved for appeal, and thus are not properly before this Court. We have already considered and denied appellant’s requests for *nunc pro tunc* relief, and relaxed waiver no longer applies in capital appeals.”).

[ Although Rule 702(b) (matters tried with capital offenses) ] Likewise, although Pa.R.A.P. 702(b) vests jurisdiction in the Supreme Court over appeals from sentences imposed on a defendant for lesser offenses as a result of the same criminal episode or transaction where the offense is tried with the capital offense, the appeal from the lesser offenses is not automatic. Thus the right to appeal the judgment of sentence on a lesser offense will be lost unless all requisite steps are taken, including preservation of issues ([ **e.g.** ] **such as** by filing post-trial motions)[ , ] **and** filing a timely notice of appeal [ , *etc.* ].

*See* [ **Rule** ] Pa.R.A.P. 2189 for [ **procedure** ] **provisions specific to the production of a reproduced record** in cases involving the death penalty.

#### Explanatory Comment

##### *Clarification as to When to File Notices of Appeal for Review of a Sentence of Death*

There is an automatic review of some aspects of a capital conviction and sentence in death penalty cases, and the jurisdiction for that review is in the Supreme Court. The Supreme Court also has jurisdiction over other challenges to the conviction and the sentence and over lesser-included offenses. There has been some confusion as to when a notice of appeal needs to be filed, including cases in which counsel did not file a notice of appeal and then realized that a notice of appeal was needed to raise the issues that counsel wanted to argue on appeal. Accordingly, the Committee proposes revising the title and the note to clarify further that only certain issues are subject to automatic review and that all others must be raised by means of a timely-filed notice of appeal.

[Pa.B. Doc. No. 13-1025. Filed for public inspection June 7, 2013, 9:00 a.m.]

## Title 246—MINOR COURT CIVIL RULES

### PART I. GENERAL

#### [ 246 PA. CODE CHS. 500 AND 1000 ]

#### Proposed Amendments to Rules 506, 1016, 1018 and 1019 and Proposed Adoption of Rule 519.1

The Minor Court Rules Committee is planning to recommend that the Supreme Court of Pennsylvania adopt amendments to Rules 506, 1016, 1018 and the official note to Rule 1019, as well as adopt a new rule, Rule 519.1 of the Minor Court Civil Rules. The Commit-

tee has not yet submitted this proposal for review by the Supreme Court of Pennsylvania.

The following explanatory Report highlights the Committee's considerations in formulating this proposal. The Committee's Report should not be confused with the Committee's Official Notes to the rules. The Supreme Court does not adopt the Committee's Official Notes or the contents of the explanatory reports.

The text of the proposed changes precedes the Report. Additions are shown in bold; deletions are bold and bracketed.

We request that interested persons submit written suggestions, comments, or objections concerning this proposal to the Committee through counsel,

Pamela S. Walker, Counsel  
Supreme Court of Pennsylvania  
Minor Court Rules Committee  
Pennsylvania Judicial Center  
PO Box 62635  
Harrisburg, PA 17106-2635  
Fax: 717-231-9546  
or email to: [minorrules@pacourts.us](mailto:minorrules@pacourts.us)

no later than August 9, 2013.

By the Minor Court Rules Committee

MARY P. MURRAY,  
Chair

### Annex A

## TITLE 246. MINOR COURT CIVIL RULES

### PART I. GENERAL

#### CHAPTER 500. ACTIONS FOR THE RECOVERY OF POSSESSION OF REAL PROPERTY

##### Rule 506. Service of Complaint.

A. The magisterial district judge shall serve the complaint by mailing a copy of it to the [ **defendant** ] **defendant's last known address** by first class mail and by delivering a copy of it for service to the sheriff of, or any certified constable in, the county in which the office of the magisterial district judge is situated. If this service is not available to the magisterial district judge, service may be made by any certified constable of the Commonwealth. The officer receiving the copy shall serve it by handing it to the defendant or to an adult person in charge for the time being of the premises possession of which is sought to be recovered or, if none of the above is found, by posting it conspicuously on those premises.

B. The copy shall be served at least five days before the hearing.

**Official Note:** Under subdivision A of this rule, service must be made both by first class mail and delivery for service in the manner prescribed. In actions where wage garnishment may be sought under Pa.R.C.P. No. 3311, the plaintiff may authorize the sheriff or constable to make personal service upon a tenant/defendant. If a tenant/defendant is not present at the property the sheriff or constable is authorized to post the complaint so that the underlying landlord-tenant action may proceed. The plaintiff may authorize the sheriff or constable to make additional attempts to effectuate personal service upon the tenant/defendant so the plaintiff can later prove such service if attempting to garnish wages under Pa.R.C.P. No. 3311. Additional service attempts by the sheriff or constable may result in additional fees.

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

##### Rule 519.1. Request for Determination of Abandoned Manufactured Home.

A. A plaintiff may request a determination that a manufactured home is abandoned by filing the request on a form prescribed by the State Court Administrator with the magisterial district court in the magisterial district where the manufactured home is located.

B. If the determination is not or cannot be made during a hearing for recovery of possession pursuant to this chapter, the magisterial district court shall set a hearing date which shall be not less than seven (7) or more than fifteen (15) days from the date the request is filed.

C. The magisterial district court shall serve a copy of the request and the hearing notice on the defendant in the manner set forth in Rule 506.

D. The magisterial district judge shall promptly give or mail written notice of the determination to the parties in interest. Notice of the determination shall contain advice as to the right of the parties to file a Statement of Objection, the time within which the statement must be filed, and that the statement is to be filed with the court of common pleas.

E. Any party aggrieved by a determination made by a magisterial district judge under this rule may obtain a reconsideration thereof in the court of common pleas by filing a statement of objection to the determination pursuant to Rule 1016 with the prothonotary and with the magisterial district judge in whose office the determination was made.

**Official Note:** This rule was adopted in 20\_\_ to accommodate the provisions of section 10.1 of the Act of November 24, 1976, P. L. 1176, No. 261, added by section 2 of the Act of October 24, 2012, P. L. 156, § 2, 68 P. S. § 398.10.1, which provides for a magisterial district judge to hold a hearing and make a determination that a manufactured home is abandoned.

The plaintiff must pay any fees or costs at the time of filing the request.

Rules 1016—1020, providing for the filing and consideration of a statement of objection to an order or determination made by a magisterial district judge under Rule 420, also apply to determinations made under this rule. A party seeking reconsideration of a determination of abandonment made concurrent with a judgment for possession must file the statement of objection in addition to the notice of appeal. Rule 1016B requires that the statement of objection must be filed with the prothonotary and the magisterial district judge within ten (10) days after the date of the determination to which objection is made. Both appeals from judgments for possession under residential leases and statements of objections to determinations of abandonment must be made within ten (10) days after the date of entry.

## CHAPTER 1000. APPEALS

### STATEMENT OF OBJECTION

Rule 1016. Statement of Objection [ **to Rule 420 Orders and Determinations** ].

A. Any party in interest aggrieved by an order or determination made by a magisterial district judge under Rule 420 **or Rule 519.1** may obtain a reconsideration thereof in the court of common pleas by filing a statement

of objection to the order or determination with the prothonotary and with the magisterial district judge in whose office the order or determination was made.

B. The statement of objection shall be filed with the prothonotary and the magisterial district judge within ten (10) days after the date of the order or determination to which objection is made.

**Official Note:** This rule and Rules 1017—1020 provide a system for reconsideration in the court of common pleas of orders and determinations of magisterial district judges dealing with execution matters, **and abandonment of manufactured homes.**

Under subdivision B of this rule, the statement of objection must be filed within ten days after the date of the questioned order or determination. [ **See Rule 421C.** ] The time limit for filing a statement of objection need not be the same as that for filing a notice of appeal from a judgment. See the Judicial Code, § 5571(c)(4), 42 Pa.C.S. § 5571(c)(4), as amended by § 10(67) of the Judiciary Act Repealer Act, Act of April 28, 1978, P. L. 202, No. 53. It may be noted that under Pa. R.C.P. Nos. 3206(b) and 3207(b) objections to sheriff's determinations must be made within ten days after the date of mailing of the determination.

#### **Rule 1018. Duties of Magisterial District Judge Upon Receipt of Statement of Objection.**

A. Immediately upon receipt of the statement of objection, the magisterial district judge shall send a copy of it by ordinary mail to all other parties in interest.

B. Within ten (10) days after receiving the statement of objection, the magisterial district judge shall file with the prothonotary a certified true copy of the record of actions taken by the magisterial district judge under **Rule 420 or Rule 519.1**, but copies of only those appeals, objections, claims, exceptions or requests considered under **Rule 420 or Rule 519.1** that are pertinent to the statement of objection need be attached to that record.

**Official Note:** As to the procedure in subdivision A, compare Pa.R.C.P. Nos. 3206(b), 3207(b).

Subdivision B is intended to bring before the court copies of the documents on file in the office of the magisterial district judge pertaining to the matter in question. The attachments to the record of **Rule 420 or Rule 519.1** actions referred to in this subdivision are notations by the magisterial district judge of appeals taken under Rule 408C and objections to levy under Rule 413, property claims under Rule 413, exceptions to distribution under Rule 416C [ **and** ], requests to set aside sale under Rule 420C filed in the office of the magisterial district judge, **and determinations of mobile home abandonment under Rule 519.1.**

#### **Rule 1019. Consideration of Statement of Objection by Court of Common Pleas.**

A. Upon consideration of the statement of objection, the court of common pleas shall take such action and make such orders as shall be just and proper.

B. The matters raised by the statement of objection shall be considered de novo by the court of common pleas.

**Official Note:** Consideration of the matters raised by the statement of objection will be de novo and the court is given broad latitude and discretion in disposing of these matters. Although the proceedings are de novo, this will

not excuse failure to comply with whatever time limitations are imposed (see Rules 408C, 413, 416C [ **and** ], 420C, **and 519.1**) for raising before the magisterial district judge the matters now before the court of common pleas.

### **REPORT**

#### **Proposed Amendments to Rules 506, 1016, 1018 and the Official Note to Rule 1019, and Proposed New Rule 519.1 of the Minor Court Civil Rules**

##### *Determination of Abandonment of Manufactured Homes*

#### *I. Introduction*

The Minor Court Rules Committee ("Committee") is proposing amendments to the rules of procedure governing actions in magisterial district courts. The goal of these rule changes is to establish procedures for the determination of abandoned manufactured homes, as provided for in the 2012 amendments to the Manufactured Home Community Rights Act.

#### *II. Discussion*

In 2012, the Manufactured Home Community Rights Act ("MHCRA") was amended to provide for the determination in the magisterial district courts of abandonment of manufactured homes located in manufactured home communities. Section 10.1 of the Act of November 24, 1976, P. L. 1176, No. 261, added by section 2 of the Act of October 24, 2012, P. L. 156, § 2, 68 P. S. § 398.10.1. Upon reviewing the amendments to the MHCRA, the Committee concluded that this new determination action was not covered by existing rules governing civil or landlord tenant actions, and proceeded to draft rules accommodating it.

#### *III. Proposed Rule Changes*

Proposed new Rule 519.1 establishes procedures for the new determination of abandonment action. Proposed Rule 519.1B provides for the setting of a hearing date, if the determination cannot be made at the time of the hearing for recovery of possession of the manufactured home space. Proposed Rule 519.1C provides for service of the request and hearing notice on the defendant, while subdivision D requires that the magisterial district judge promptly give or mail written notice of the determination to the parties in interest. Finally, in proposed subdivision E, if a party is aggrieved by a determination made by a magisterial district judge under this rule, the Committee proposes utilizing the existing procedures set forth in Rules 1016—1020, providing for the filing and consideration of a statement of objection to an order or determination made by a magisterial district judge under Rule 420.

The proposed amendments to Rules 1016, 1018, and 1019 are to include references to Rule 519.1 and the determination of abandoned manufactured homes in those rules, which set forth the procedures for filing a statement of objection. Finally, the Committee proposes amending Rule 506, providing for service of the complaint in a landlord-tenant action, to clarify that the copy sent via first class mail should be mailed to the defendant's last known address.

[Pa.B. Doc. No. 13-1026. Filed for public inspection June 7, 2013, 9:00 a.m.]

# Title 255—LOCAL COURT RULES

## FAYETTE COUNTY

### Administrative Order: Fayette County Youth Commission Program; No. 1 AD 2013

#### Administrative Order

*And Now*, this 15th day of May, 2013 it is hereby Ordered that the Fayette County Youth Commission Program is amended as follows.

The Clerk of Courts is directed as follows:

(1) One certified copy of the Order and program shall be filed with the Administrative Office of the Pennsylvania Courts.

(2) Two certified copies and diskette of the Order and program and one copy of the written notification received from the Juvenile Court Procedural Rules Committee shall be distributed to the Legislative Reference Bureau for publication in the *Pennsylvania Bulletin*.

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

The amendment of the Fayette County Youth Commission Program shall become effective thirty (30) days after publication in the *Pennsylvania Bulletin* and on the UJS Portal.

*By the Court*

JOHN F. WAGNER, Jr.,  
*President Judge*

### Fayette County Youth Commission Program

#### Description and Policy Manual

##### *Youth Commission Narrative*

A Youth Commission is a group of volunteer residents from any community whose purpose is to assist the Juvenile Court in providing guidance and supervision to alleged delinquent children who have been referred to the Juvenile Court and determined to be eligible low risk/first time offenders.

##### *Community Probation Officer*

A Community Probation Officer is a community member who has a genuine interest in assisting children and volunteers to monitor the activities of any juvenile who is deemed to be a low risk/ first time offender. A Community Probation Officer (CPO) will provide mentoring, guidance and referrals for services to any juvenile who has been referred to the Youth Commission from the Juvenile Probation Office.

##### *Goals of a Youth Commission*

Youth Commissions have several identifiable goals. The primary goal of a Youth Commission is to act as a diversionary program for the local Juvenile Court in the processing and handling of first time/non-felony juvenile offenders within the community. A certain portion of the delinquency cases currently handled by the local Juvenile Court will be handled by the Youth Commission, thereby easing the workload of a currently overburdened Juvenile Justice system within the County.

Another goal of the Youth Commission is to give individuals within a community an opportunity to engage in an activity to positively impact the lives of young

persons residing within the same community. The ultimate goal of this interaction, being the reduction of crime and the improvement of the overall safety and quality of life for all persons residing within the community.

Finally, we hope to decrease the recidivism rates within the Juvenile Probation System by involving first-time offending youth in natural community supports, thereby holding them accountable for their behavior while showing them a more positive available lifestyle. Operating within these goals will enhance the Balanced and Restorative Justice (BARJ) mission as described through Evidence Based Probation policy and practices.

##### *Program History*

The Fayette County Youth Commission (Youth Commission) is a diversionary program established by the Fayette County Juvenile Court (Court) in January 1996. The Youth Commission is a Court approved program and is authorized to provide guidance and supervision to children under the supervision of the Juvenile Court whose dispositions are consistent with 18 Pa.C.S. Section 6323, Informal Adjustment and 42 Pa.C.S. Section 6340 Consent Decree.

##### *Definitions*

For the purpose of this document the following words and phrases will be defined as follows:

*Child*: The individual who is alleged to have committed a delinquent act and who is the object of the proceedings before the Court.

*CJPO*: Chief Juvenile Probation Officer

*County*: Fayette County Board of Commissioners and all entities of the County of Fayette

*Court*: Court of Common Pleas of Fayette County, Pennsylvania including the Juvenile Division of said Court.

*CPO*: Community Probation Officer

*Juvenile Probation*: Fayette County Juvenile Probation Office

*Parent*: To include the mother, father, grandparents, guardians, foster parents of the child who is the object of the proceedings before the Court.

*YC Coordinator*: Juvenile Probation Officer on staff who is assigned to supervise the Youth Commission Program and act as the liaison between the Court, Juvenile Probation Office, and Youth Commission

*YLS*: Youth Level of Service Assessment Instrument

*Youth Commission*: Fayette County Youth Commission Program

##### *Link to the Juvenile Court and the County Government*

Through this document and the accompanying administrative order, the Court will recognize the Youth Commission as a Court operated program which is authorized to provide guidance and supervision to individuals who fall within the jurisdiction of the Juvenile Court who are alleged delinquent children as defined in 42 Pa.C.S. Section 6302 of the Juvenile Act entitled Definitions, wherein the Juvenile Act defines "child" and "delinquent act." Furthermore, the Court will also authorize the Youth Commission to provide supervision over children who are subject to the jurisdiction of the Court as a result of their delinquency case has received a disposition pursuant to 42 Pa.C.S. Section 6323 entitled Informal Adjustment and Section 42 Pa.C.S. Section 6340 Consent Decree. This section of the Juvenile Act enables the Juvenile Court to

refer children to an outside agency for informal counseling and supervision in lieu of a formal Juvenile Court hearing. This is where the Youth Commission fits into the process.

The Juvenile Court in Fayette County will recognize the Youth Commission as a diversionary program and authorize them to administratively supervise certain types of cases involving juvenile offenders. However, the Youth Commission falls under the direct supervision of the Chief Juvenile Probation Officer or his designate.

The link between the Youth Commission and the county government, namely the Fayette County Commissioners will be an indirect one. The Fayette County Commissioners will be asked not only to endorse the Youth Commission process, but also, will be asked to offer financial assistance with regard to absorbing certain cost associated with the operations of this program.

#### *Youth Commission Contact with the Juvenile Court*

Once a Youth Commission has been organized and is operational, the Juvenile Probation Office will assume several roles with regard to the Youth Commission's operation. Naturally, the Juvenile Probation Office will serve as the source of referrals on an ongoing basis for the Youth Commission. The Juvenile Probation Office will also be responsible for training the Youth Commission members.

Additionally, one of the professional staff at the Juvenile Probation Office will be assigned to the Youth Commission in order to provide the entire program continuity and offer advice in handling cases initially. This staff member will be available to offer support to the Youth Commission members, either individually or as a group, on possible ways of dealing with problems encountered with the children under their supervision as well as to provide suggestions or advice on handling a potentially controversial situation. The Probation Officer will also act as a resource person to the members of the Youth Commission and/or the child and his parent(s) or guardian(s) in order to assure that the child and the family receives the services that they need or require.

Furthermore, the members of the Youth Commission will be required to submit regular reports to the Juvenile Probation Office on those children under their supervision which ensure adequate communication between the Youth Commission and Juvenile Probation Office.

#### *Forming a Youth Commission*

A Youth Commission can be established to serve the needs of a given geographical area and to serve the children within that area. In densely populated areas, the geographical boundaries of a Youth Commission may be that the municipality's boundaries. In less densely populated areas, a Youth Commission may be established to serve the needs of the children within an entire school district.

A Youth Commission should consist of volunteers that represent a wide cross-section of people from within the community as this cross section applies to age, sex, race, economic status, religion, and occupation. These volunteers are those individuals who have a genuine interest in supervising and assisting children between 10-18 years of age who have engaged in criminal behavior of a minor nature and who have had no prior contact with the Juvenile Court.

In addition to an unspecified and changing number of volunteers the Youth Commission is staffed by a Juvenile Probation Officer who has been designated at the "Youth Commission Coordinator" (YC Coordinator). The YC Coordinator acts as the liaison between the Court, Juvenile Probation Office and the Youth Commission. The YC Coordinator is authorized to allocate up to one third (1/3) of their time, or not more than 12.5 hours per week, to the overall operation of the Youth Commission.

The Fayette County Juvenile Probation Office will be responsible to develop, organize, train, and provide ongoing assistance to Youth Commissions within Fayette County. Exactly where Youth Commissions develop within the County will depend upon the interest level of the resident of any given area.

#### *Screening Procedures of Potential Members*

Persons who have an interest in becoming part of a Youth Commission will be asked to submit a prepared application to the Juvenile Probation Office. This application will request a variety of information, which includes some very general information such as name, date of birth, social security number, phone number, and occupation, and some very specific information such as specific interests that a potential youth commission member may have such as willingness to assist in community service projects or an interest to participate in victim/ offender discussion groups.

Since the work of a Youth Commission involves direct contact with case/juvenile information which is considered confidential, individuals who wish to be part of a Youth Commission will be subject to a screening and clearance process. Potential Youth Commission members must be at least twenty-one (21) years of age at the time of application and be individuals of good character and moral standing.

The first level of screening will be a background check to determine whether the applicant possesses a criminal record. The Juvenile Probation Office will conduct an initial Criminal History Record Check, to be completed on the local, state and a national level. The applicant will be required to request a Pennsylvania State Criminal History Record check also known as an Act 34 of 1985 clearance.

The applicant will have to prepare a separate written application which will be provided by the Juvenile Probation Office. Although there is a fee associated with all requests made pursuant to Act 34 of 1985, these clearance forms will be submitted by the Juvenile Probation Office or the applicant directly, and the cost associated with the application will be reimbursed by the Fayette Youth Commission Program, to the applicant upon becoming an active member.

The next level of screening will consist of a check with the Pennsylvania Department of Public Welfare pursuant to Act 33 of 1993 to determine whether the applicant has been suspected which meant with the legal definition "Child Abuses" in order to meet the clearance requirements of Act 33 of 1993, the applicant will have to prepare a separate written application which will be provided by the Juvenile Probation Office. Although there is a fee associated with all requests made pursuant to Act 33 of 1993, these clearance forms will be submitted by the Juvenile Probation Office, and the cost associated with the application will be reimbursed by the Fayette County Youth Commission Program, to the applicant upon becoming an active member.



The third level of screening will involve the acquisition of Federal Bureau of Investigation and finger print clearances through the Cogent System and the cost associated with the screening will be reimbursed by the Fayette County Youth Commission Program, to the applicant upon becoming an active member.

Furthermore, the applicant will be requested to submit the names of at least 3 individuals who will be willing to attest to the character of the applicant. These references will be contacted via telephone by the Juvenile Probation Office and asked to complete an oral evaluation of the applicant, which will be made part of the applicant's request to become part of a Youth Commission.

The above-mentioned screening process is intended to be a tool in order to judge the overall character of individuals who are interested in participating in a Youth Commission. It is important to understand that the only factor that will automatically disqualify a person from participating in a Youth Commission is if it verified that the applicant has a suspected, indicated, or confirmed referral to the Pennsylvania Department of Public Welfare involving child abuse.

Applicants who possess a prior criminal record will be subjected to closer scrutiny than that of a person without a criminal record, however, a criminal record will be viewed in its proper context with regard to the seriousness of convicted offenses, duration of criminal record, and current status with the Courts along with all other aspects of the person's personal and professional life.

*Individuals Who Should be Excluded from Being Members of a Youth Commission*

There are certain individuals who should not be considered for membership in a Youth Commission. These individuals would include applicants who are found to have an extensive criminal history, as well as, those applicants who have been suspected of being involved in incidents defined as child abuse. Furthermore, any applicants who are actively involved with the Criminal Courts will not be considered as possible Youth Commission members.

Additionally, it is recommended that any person who is an elected public official should not be considered for a position on a Youth Commission. The exclusion of elected public officials is based upon the possibility that these individuals may use their involvement in the Youth Commission as part of their political platform which may bring unnecessary or unwanted publicity to the Youth Commission.

*Cases a Youth Commission Will Handle*

A Youth Commission will be asked to handle first time offenders who are charged with a variety of misdemeanor or summary offenses. These cases will be assigned to the Youth Commission following the completion of the Youth Level of Service Assessment (YLS) by the Juvenile Probation Office during the initial intake process.

Partial listings of these types of misdemeanor offenses that a Youth Commission may be asked to handle are as follows:

Simple Assault	Theft by Unlawful Taking or Disposition
Retail Theft (2nd Offense)	Criminal Trespass
Harassment by Communication	Criminal Mischief (>\$500.00 damage)

A partial listing of the most common summary offenses that a Youth Commission may be asked to handle are as follows:

Underage Drinking	Curfew Violations
Harassment	Disorderly Conduct
Bad Checks	Criminal Mischief (>\$500.00 damages)
Retail Theft (1st Offense)	Public Drunkenness

All summary offenses, which also include the vast majority of motor vehicle violations, are initially handled at the District Justice level where the District Justice accepts the complaint and determines the child's innocence or guilt. If guilt is determined, the District Justice orders the child to pay fines and costs as prescribed by the District Justice, non-payment on these cases are referred to the Juvenile Court for additional action since the District Justice lacks the authority to incarcerate a child for failure to pay the fine and cost due to satisfy the case.

*A Child's Innocence or Guilt with Regard to a Particular Offense*

There are several conditions that must be met before a case can be diverted from the Juvenile Court to a Youth Commission for supervision. These conditions are as follows:

1. The most serious offense that a child is being charged with and has admitted to do not exceed a misdemeanor offense and the offense is one the Juvenile Probation Office determines is otherwise appropriate to be handled at the Youth Commission level.
2. The child and his or her parent(s) or guardian(s) are agreeable to having the case handled at the Youth Commission level.
3. A Youth Level of Service Assessment (YLS) designates the child as low risk and his/her needs are appropriate for this level of supervision.

*Notification of Cases*

The cases that will be referred to the Youth Commission will first be screened by the Intake Department of the Juvenile Probation Office. Complaints received at the Juvenile Probation from the local and state police as well as District Justice will be reviewed to determine their appropriateness for diversion to the Youth Commission based upon the degree of offense, prior involvement with the Juvenile Court, and the juvenile's and his/ her parent(s) or guardian(s) willingness to have the case handled by the Youth Commission.

Since a child is only eligible to have one case handled at the Youth Commission level, the Juvenile Probation Office will maintain records of all cases referred to the Youth Commission. Therefore, in order to maintain accurate records in this regard, the Juvenile Probation Office will be responsible for the distribution of all cases to the Youth Commission.

Once a referral has been made to the Juvenile Probation office and the Intake Department at the Juvenile Probation Office makes the determination that the case meets the requirements for diversion to a Youth Commission, the Juvenile Probation Office will forward the necessary information to the Youth Commission for processing purposes. The information that will be forwarded to the Youth Commission will include a copy of the Complaint alleging the illegal or delinquent act committed by the juvenile and also a copy of the police report

which will provide details as to the offense and the child's involvement in the same. If necessary, the Intake Department at the Juvenile Probation Office will provide the Youth Commission with a written summary of the child's delinquent activity in the event that clarification of certain details will be helpful in supervising the case.

#### *Youth Commission Member Training*

Part of the training that members of a Youth Commission will be subject to will involve learning the purpose of the Juvenile Court and the overall operation of the Juvenile Probation Office and the Youth Level of Services Assessment.

Although the Juvenile Court system in Pennsylvania is now more open to the public since its beginning decades ago, the types of cases that will be referred to and handled by the Youth Commission are still subject to the strictest of confidentiality. This makes it necessary that Youth Commission members be trained concerning the law governing the potentiality of Juvenile Court Records. Training will also include the issues of confidentiality, an outline of the job description for Youth Commission members, effective methods for communicating with adolescents, and methods for making your Youth Commission operate most effectively.

Individuals who participate in a Youth Commission will, for all intents and purposes, act as community probation officers to the children under the supervision of the Youth Commission. Youth Commission members will be faced with a variety of social, behavior, economic, and cultural problems which effect that youth commission which affect the children under the supervision of the Youth Commission.

It will be important that Youth Commission members develop a working knowledge of various social, economic, and counseling programs that are available within the County of Fayette to better assist the children for whom the Youth Commission is responsible.

#### *Size and Structure of a Youth Commission*

The size of any given Youth Commission will depend entirely on the interest shown in that area and how well civic and community leaders recruit new members and retain existing members. It is not necessary or practical for every member of the Youth Commission to serve as a Community Probation Officer. Some members may be best suited for other responsibilities like community resource development, maintaining organization within the Commission, and conflict resolution at Hearings.

The structure of a Youth Commission is quite simple. There should be a Chairperson who will act as the organizational head of the Youth Commission and a Co-Chairperson who will act as the Chairperson's assistant and head the organization in the absence of the Chairperson.

The Youth Commission should also have a Secretary to record the activities of the organization and also assure that reports are submitted to the Juvenile Probation Office on a timely basis. The Chairperson, Co-Chairperson, and Secretary should be chosen by the Youth Commission as a whole, and in order to provide the organization with continuity, these persons should hold these positions for a person of not less than two years until the group as a whole has an opportunity to select or elect other persons to these positions if that is the desire of the organization.

#### *Youth Commission Meetings and Business*

Although there is no hard and fast rule in this regard, generally Youth Commissions should meet as often as

they deem necessary and allow themselves sufficient time to thoroughly handle the cases that have been referred to them by the Juvenile Probation office. A Youth Commission should meet no less than once per month, not only to handle new referrals, but also to review the progress of those children currently under their supervision.

#### *Youth Commission Costs Associated with Conducting Its Business*

Youth Commissions have two basic needs.

First, the group needs a place to meet. Suitable meeting facilities will be available, free of charge, in municipal buildings, school, churches, or other similar places.

The second need of the Youth Commission is a means by which to effectively communicate with the children and parent (s) or guardian(s) whose cases are referred to the Youth Commission for handling. The Juvenile Probation Office will provide all of the postage, paper, envelopes, and printed material that the Youth Commission will require to effectively conduct their business. Additionally, the cost of any travel that a Youth Commission member may encounter as a result of their involvement in this program will have to be borne by the member.

Like any volunteer organization, donations will be greatly appreciated. It is hoped that the municipalities in which a Youth Commission is located will lend its support by providing free meeting space, file cabinet space, and any other supplies that will make the Youth Commission program successful. If a Youth Commission eventually begins to participate in a community service program, then cooperatively the County, Juvenile Probation Office, and a Youth Commission will need to explore creative ways of financing the cost associated with this type of program.

All expenses associated with the day to day operation of the Fayette County Youth Commission shall be paid for through the Youth Commission Account that is maintained at and by the Juvenile Probation Office. The Youth Commission encounters ongoing expenses in order to meet its goals of providing guidance and supervision to alleged delinquent children who are subject to its supervision. At the time the Youth Commission was created it was the goal of the Court to allow for revenue options that would make the operation of the program cost neutral for the County of Fayette.

#### *Revenue*

The Court authorized the Juvenile Probation Office to assess all children who come under the Court's jurisdiction as a result of a final disposition of a Consent Decree or an adjudication of delinquency be required to pay a fine through the Juvenile Probation Office in the amount of one hundred dollars (\$100.00) with the money generated from this fine to be used to offset the overall costs associated with the operation of the Youth Commission.

Furthermore, on April 1, 2006 the Chief Juvenile Probation Officer gave authorization that allowed fifty percent (50%) of all of the funds received from processing cases certified to the Juvenile Court by the Minor Judiciary where the defendants are juveniles who have failed to pay fines and costs pursuant to a summary offense conviction shall likewise be as a source of revenue to support the operation of the Youth Commission. All funds collected as a result of these revenue sources are deposited in an account which is used for the operation of the Fayette County Youth Commission.

#### *Revenue Deposits*

All funds received and intended for use by the Youth Commission shall be deposited into the YC Account

described herein. Deposits shall be prepared and deposited in to the YC Account on a timely basis and the deposit ticket received at the time of the deposit shall be attached to the NCR or other copy of the deposit ticket. Copies of checks or other sources of revenue which make up the deposit shall be copied and recorded for audit purposes.

#### *Expenses*

The expenses generally associated with the operation of the Youth Commission fall into one of three different categories:

1. Expenses relating to the Youth Commission Members and the business of operating the Youth Commission. The expenses that generally fall into this category are as follows:

- Materials and supplies including printed materials;
- Advertising as associated with soliciting new members;
- Advertising as associated with the program itself;
- Liability and related insurance;
- Training and related expenses.

2. Expenses relating directly Youth Commission clients. The expenses that generally fall into this category are as follows:

- Materials and supplies for educational and community service programs where Youth Commission clients are participants,
- The cost of personal items which the client is in need of and if not provided may prove to be detrimental to the overall health, safety and wellbeing of the client;
- Any other reasonable expenses relating to the supervision of the client deemed appropriate and agreed upon by the YC Coordinator and the Chief or Deputy Chief Juvenile Probation Officer.

3. Expenses relating to the YC Coordinator. The expenses that generally fall into this category are items such as:

- Materials and supplies;
- Training fees and related expenses;
- Travel and transportation expenses;

\* It should be noted that the proportionate share of the YC Coordinator's salary, benefits and allocated costs may be considered as Youth Commission related expense and is not to exceed one third (1/3rd) of the amounts for these items as established on January 1.

• As a general rule the cost of benefits may be established as that amount equal to but not to exceed twenty-eight percent (28%) of the YC Coordinator's salary for the calendar year. The value associated with the cost of employment of the YC Coordinator, including allocated costs, as determined above shall not be forwarded to the County as a form of reimbursement, however, this amount shall be made available to the Chief or Deputy Chief Juvenile Probation Officer as a discretionary amount to be used to offset the costs associated with the overall operation of the Juvenile Probation Office as deemed necessary by the Chief or his Deputy.

#### *Accounting*

On November 30, 2006 the Juvenile Probation Office established a checking account at First National Bank of Pennsylvania, Uniontown, Pennsylvania. The account cre-

ated in this matter is entitled "Fayette County Juvenile Probation Office—Youth Commission Program Account."

The above-mentioned account is an interest generating account which requires two (2) signatures for check processing. The two signatures required at the time of the creation of this account were the Chief and Deputy Chief Juvenile Probation Officers. Signatures on this account will be changed on an as needed basis.

This account is subject to reconciliation on a monthly basis. The reconciliation is to be performed by an individual who is not the person who administers the account or who is signature authority on the account.

This account shall be subject to audit on an annual basis by the Controller of Fayette County with the results of the audit to be forwarded to the Chief Juvenile Probation Officer and the Court. The day to day activities, deposits and withdraws, of this account will be maintained in the customary checkbook ledger method as well as electronically.

#### *Reimbursement for expenses*

Eligible expenses associated with the operation of the Youth Commission shall be paid out of the YC Account. Persons seeking reimbursement for expenses or seeking funds for purchases, etc. will be required to prepare and submit for approval a "Youth Commission Account Requisition for Funds" form.

This form will contain the following information:

- Date that the requisition is made;
- Name of the person making the request;
- Description of the service or product for which payment or reimbursement is requested;
- Estimated amount that the service or product will cost;
- Name and title of the person approving the request;
- Amount paid for the service or product;
- Check number of the check used for payment;
- An indication as to whether there is a receipt for the service or product.

All requisitions shall be submitted to the Chief or Deputy Chief Juvenile Probation Officer for approval. Either shall prepare, record, and distribute the check for payment to the appropriate party while maintaining a copy of the receipt for the service or product attached to the requisition form and properly recorded.

The Chief for Deputy Chief Juvenile Probation Officer is empowered to authorize and make payments for services or products associated with the operation of the Youth Commission in an amount up to three thousand dollars (\$3,000.00). Services and products in excess of three thousand dollars (\$3,000.00) will require the approval of the President Judge.

#### *Reporting*

A report which reflects the financial activity of the YC Account will be generated on a monthly basis. This report will be forwarded to the Court with a copy to be retained along with other financial and program reports generated for that month.

#### *Youth Commission Supervision of a Case*

Upon receiving from the Juvenile Probation Office, the Youth Commission will know that the case at hand is one that the Juvenile Probation Office has determined is appropriate for the Youth Commission to handle. This

determination is made based upon the type of offense that the juvenile is charged with, the juvenile charged is a first time offender and the Youth Level of Service Assessment is at Low/Moderate risk. The Youth Commission will be assured that the juvenile and his parent(s) or guardian(s) has been contacted by the Juvenile Probation Office, and they are agreeable to having the case handled at the Youth Commission level.

The Youth Commission will be responsible for notifying the juvenile and his/her parent(s) or guardian(s) of the time, date, and location of the Youth Commission hearing. The notification to the juvenile and the parent(s) or guardian(s) should be done by paper, email or telephone and a copy of the notification should be maintained in the child's case record. The notification forms can be provided to the Youth Commission by the Juvenile Probation Office along with envelopes and postage, if necessary.

When the Youth Commission has set the time and date for the Youth Commission hearing and the Youth Commission has assembled, the case should be called and the juvenile and his/her parent(s) or guardian(s) called into the meeting room.

Prior to the commencement of the Youth Commission proceedings, it would be advisable to inform the parties present, in particular the juvenile and his parent(s) or guardian(s), that the Youth Commission exists to assist minor first time offenders, and their primary goal is to offer assistance, guidance, and supervision of the juvenile whose case has been referred to the Youth Commission in an effort to keep the child from getting into further difficulty, not only with legal authorities but also to aid the child in improving his or her family life and, improving behavior, attendance, and performance at school.

It is suggested that this type of statement be made by the Chairperson in order to put the parties at ease and make them more comfortable with the proceedings. Creating a more comfortable atmosphere will greatly benefit the Youth Commission in eliciting information from the juvenile and his parent(s) or guardian(s) and also aid in the future relationship that will exist between the parties involved.

It is also important to remember that the Youth Commission should assume a non-authoritarian role. The role of the Youth Commission is to handle minor first time offenders who are just coming into the system, and the types of children that the Youth Commission will be dealing with will more than likely respond to the Youth Commission experience itself and the guidance and assistance that it has to offer. The need for an authoritarian approach with the Youth Commission may be counterproductive.

Additionally, the Youth Commission as a whole must maintain its integrity. Its role and goals cannot be compromised. Since the Youth Commission is a community board, and it will be handling juvenile offenders from within its community, there is always the possibility of a conflict of interest between the juvenile offender and one of the members of the Youth Commission. The most common conflict of interest that will occur is when a Youth Commission member personally knows either the offender or the victim in a given case.

It will be up to the individual Youth Commission member to determine whether or not their personal knowledge of or involvement with the offender, the offender's parent(s) or guardian(s), or the victim will effect the objectivity or decision making ability in any given case. If

so, then this Youth Commission member should excuse himself or herself from the case where the conflict of interest exists.

The Chairperson of the Youth Commission should lead the hearing. The juvenile and his parent(s) or guardian(s) should be advised of the complaint that the Youth Commission has received.

The Chairman should, for the benefit of all parties present, read the complaint in its entirety. The Chairperson should begin the discussion with the juvenile as to his or her involvement in the offense, the child's reason(s) for committing the offense, etc. The juvenile can be engaged in the discussion and asked questions by any member of the Youth Commission present at the meeting.

When the Chairperson of the Youth Commission has determined that sufficient information has been elicited from the juvenile as to his or her involvement in the offense, the juvenile should be excused from the hearing room, and separate discussion should be initiated with the parent(s) or guardian(s) of the child. The areas that should be covered in this discussion are as follows:

- To what extent does the child adhere to parental supervision?
- Does the child abide by a reasonable curfew?
- Does the child have a positive or negative peer group?
- Does the child engage in the use of illegal drugs and/or alcohol, and if so, to what extent?
- Does the child attend school on a regular basis?
- Does the child experience difficulty in school in either the areas of his academics or with regard to behavioral issues?
- Determine what, if any, concerns do the parent(s) or guardian(s) have with regard to the child's current behavior patterns?

The above mentioned lists includes suggested areas of discussion with the child's parent(s) or guardian(s) and are intended to give the Youth Commission members a fairly well rounded view of the child and his or her overall behavior. The Youth Commission members are free to ask whatever question they feel pertinent to the case. The juvenile's parent(s) or guardian(s) are, of course, free to answer the questions, or, they may elect not to respond.

It is important to remember that when inquiring of the parent(s) or guardian(s) as to behavioral issues concerning the child, you are looking not only for problem areas but also for areas in which the child is performing successfully. These strengths will become very important to the Youth Commission member who assumes responsibility for supervising the child, and these strengths or positive aspects of the child's life are something that can be used as a foundation for a relationship between the child and the supervising Youth Commission.

After discussing the child with his or her parent(s) or guardian(s), it is advisable to bring the child back into the hearing room, and this time, excuse the parent(s) or guardian(s) in order to give the Youth Commission members an opportunity to talk with the child alone. The discussion with the child at this point should not center on the offense at hand, due to the parent's absence; however, the discussion with the child at this time should center on the responses elicited from the parent(s) or guardian(s) about the child's overall activities at home, in school, and in the community.

It is also very helpful to try to elicit information from the child as to his or her attitudes toward the offense, how he or she feels about the offense that was committed, and to attempt to determine the child's level of understanding with regard to how he or she has harmed himself or herself and also, the extent of harm that he or she has done to the victim of the crime.

As with the parent(s) or guardian(s), the Youth Commission needs to elicit positive aspects of the child's life from the child. These positive elements may be found in the areas of his or her family, school, or athletics. A growing number of children who are involved with the Juvenile Court have had very few successes in their life, and therefore, the Youth Commission members will need to be creative in their thinking when exploring this avenue of questioning.

After the Youth Commission as a whole has discussed the case with the juvenile and his parent(s) or guardian(s) separately and together, then it is time for the Youth Commission to excuse the juvenile and his parent(s) or guardian(s) in order to allow the Youth Commission members to discuss the case privately and come up with an appropriate supervision plan.

#### *Options to Supervision Rules in a Youth Commission Case*

The child appearing before the Youth Commission will be placed under its direct supervision; therefore it will be convenient to refer to this child's status as being "on probation". Many of the terms and conditions of probation are standards used by all probation departments, juvenile and adult alike. The obvious rules are as follows:

1. The child must refrain from any further criminal activity which would result in further contact with the police. This contact can range from the commission of additional acts of delinquency which would include misdemeanor or felony offenses, but also summary offenses which would involve either police or the District Justice.

2. The Child must attend school on a regular basis, and while in school, the child should behave in an appropriate manner. Additionally, the child should try to benefit from his educational program to the best of his or her ability.

3. The child must adhere to the rules set by his parent(s) or guardian(s) within the home setting. This would include complying with the established rules at home, doing specific chores at home, and showing an appropriate level of respect to the parent(s) or guardian(s). The child should also be required to keep his or her parent(s) or guardian(s) aware of his whereabouts and activities at all times.

4. This child must abide by a reasonable curfew that is established either by his parent(s) or guardian(s) or community local ordinance.

5. The child must agree to refrain from the use of illegal drugs and alcohol.

The above-listed rules and regulations are one that are always part of child's probation when his case is handled at the Juvenile Probation Office, and should be part of the child's probation while under the supervision of the Youth Commission.

One of the luxuries of the Youth Commission program is flexibility. Youth Commission members should use their imagination and creativity when setting additional conditions of probation for children under their supervision. There are certain conditions that the Youth Commission may want to include as part of their plan and may include the following:

1. The child is required to spend a certain number of hours per night or per week on his or her homework.

2. The child may be required to perform certain specific jobs at home, such as cutting grass, cleaning his or her room, doing dishes, etc.

3. The child will be required to write a letter of apology to the victim of his or her crime.

4. The child may be required to earn money doing odd jobs either at home, for relatives, or for neighbors in order to pay part or all of their restitution owed.

5. The child may be required to spend a certain number of hours per week participating in family oriented activities such as going to church, attending family outings, picnic, etc.

The Youth Commission as a group can refer to the Contact Lists (developed by YC Members) for names of local businesses, churches, and community recreation centers which might continue to meet the child's needs long after the end of his probation.

In addition to reviewing the disposition in a case, the Youth Commission will have to assign one of its members to supervise the child. This is a decision that will need to be made while the Youth Commission is meeting privately and deciding on the case. The Youth Commission member who agrees to accept the case will be the individual who is responsible for assuring that the juvenile is complying with the terms and conditions of his or her probation.

It is very important at this initial meeting that the child and his parent(s) or guardian(s) are clear as the child's expectations while on probation, and any questions concerning the rules, they should be answered at the initial meeting. Also, it will be important for the reporting or contact schedule be established at the initial meeting.

The Youth Commission member who is assigned to supervise the child should communicate when, where, and at what time the Youth Commission member and the child will meet. The frequency of these meeting depends on the child's need for supervision. Some cases will require minimal attention, while others will require more attention.

It is usually best to begin with frequent contact with the Youth Commission member. The child's parent(s) or guardian(s) should always be invited to attend the meetings between the Youth Commission member and the child. Since these meetings are intended to be informational and problem solving in nature, it is always best to hear both sides of a story when offering advice in the event that a problem exists.

#### *Expectations of a Community Probation Officer*

The following expectations are considered minimums by which each member should apply themselves in their role. These basic points are expanded upon on the Standards Governing Volunteer Conduct form which each member must sign in agreement prior to acceptance to any Commission.

1. The CPO will assume the responsibility of meeting with the youth at least one time per month for a period not to exceed six months. This monthly contact must occur on a face-to-face basis.

2. Make occasional telephone contacts with the child's significant adults. These may include guardian, teacher, social worker, etc. the purpose is to evaluate the extent to which the child is meeting terms of probation, while evaluating his or her Risk Factors (family, home, school,

and peer) to give some indication as to whether the child is likely to commit more delinquent acts.

3. Oversee the child's gradual involvement into community supports-reaction centers, church, employment, student assistance programs, etc., and assess their influence on his or her behavior.

4. Each month file a report to the Youth Commission to indicate whether the youth has been meeting the terms of the Informal Assessment.

5. Maintain absolute confidentiality regarding the child. This means that no personal information about the child may be discussed with anyone outside the Youth Commission, the JPO, or any entity for which a release of information has been signed.

*Records to be Kept While Under Supervision of the Youth Commission*

The Juvenile Probation Office will provide the Youth Commission members with an easy to complete form that the supervising Youth Commission member may use each time he or she has contact with the child. This form will be on NCR (non-carbon reproduction) paper and one copy will be retained in the child's file where the Youth Commission keeps its records and one will be forwarded to the Juvenile Probation Office on a monthly basis, and reports will be directed to the attention of the Juvenile Probation Officer who is assigned to assist the Youth Commission.

The report will address areas of behavior at home, in school, in the community, peer group interaction and suspected drug or alcohol use or abuse. There will also be ample room for the Youth Commission member who is supervising the child to offer his or her comments. The information from these forms will be entered into the Juvenile Court Management System (JCMS) by the Youth Commission Coordinator for accountability and tracking purposes.

*When a Child's Involvement Ends with the Youth Commission*

The children under the supervision of the Youth Commission are subject to a disposition referred to as an "Informal Adjustment Consent." The period of probation that is permitted under this disposition is limited to six (6) months.

No child who is referred to and whose case is handled by the Youth Commission may be under its supervision for more than six months from the date the parties agreed to and sign the "Informal Consent." There are no provisions for extending the "Informal Consent" beyond a six month period.

A child who has faithfully met the requirements placed on him or she by the Youth Commission may be successfully released from the program at the conclusion of the six months. Additionally, a child may be released prior to the six months if his or her behavior warrants the same. A decision to release a child prior to completing six months should be one that is made not only by the supervising Youth Commission member but also with input from the child's parent(s) or guardian(s). Additionally, the Juvenile Probation Office will be notified of the successful completion when the Youth Commission submits their monthly reports.

Conversely, the decision to terminate a child from the Youth Commission program is one that should be made collectively by the entire Youth Commission including the Juvenile Probation Officer who is assigned to assist the

Youth Commission. In a case where a child has shown resistance to accepting the rule set forth, or has failed to take the period of probation seriously by repeated violations of specific rules, that child should be terminated from further involvement with the Youth Commission.

The Youth Commission members need to decide collectively that they have exhausted all of their available resources before finalizing the decision to terminate a child from the program. When a child is terminated from the Youth Commission, it should be noted on the monthly report that is submitted to the Juvenile Probation Office with a statement of the reasons for the termination.

In the matter of a District Magistrate case returned to the Juvenile Probation Office for failure to complete the Youth Commission program, the Juvenile will be notified with the specific violations of the terms and conditions of supervision and the revocation of the Informal Adjustment Consent. The Juvenile Probation Office then will proceed with further appropriate Court action.

*Restitution in Cases that are Referred to the Youth Commission*

The cases that are received at the Juvenile Probation Office and eventually referred to the Youth Commission will be processed for assessment and collection of restitution in the usual manner.

Upon receiving a referral alleging delinquent behavior where it appears that the victim has sustained either property or personal damages resulting from the delinquent behavior the Juvenile Probation Office forwards a Victims Claim Form to the victim. This form asks that the victim report the total amount of damages to the Juvenile Probation Office as well as financial losses paid directly by the victim and or their insurance carrier.

With rare exceptions, the Juvenile Probation Office takes up the issue of restitution with the juvenile's parent(s) or guardian(s) and for all intents and purposes the issue of restitution is kept as a separate issue apart from the child's progress and behavior while under the supervision of the Juvenile Probation Office.

This policy will remain the same for cases that are referred to the Youth Commission. The Juvenile Probation Office will continue to determine the amount of restitution that is due in a particular case, and notify the parent(s) or guardian(s) of the child as to the total amount of restitution due in a case. The Juvenile Probation Office will make arrangements directly with the parent(s) or guardian(s) of the child accused of causing the damages for repayment of the damages on a timely basis.

All payments for restitution must be forwarded to the Juvenile Probation Office, recorded, credited against the total amount due in the child's case, and payments will be disbursed from the Juvenile Probation in our usual fashion.

By keeping the issue of restitution separate and apart from the child's involvement with the Youth Commission, the Youth Commission members will not be viewed as bill collectors, and they will be able to concentrate more on the child's overall behavior and progress while on probation instead of dealing with the amount of money that is due in the child's case.

It is also practice of the Juvenile Probation Office not to impose further sanctions upon a child due to their parent(s) or guardian(s) inability or unwillingness to pay restitution on their child's behalf. In essence, this means that a child who has successfully complied with the terms

and conditions of his or her probation will qualify for a timely release from probation even though restitution is owed in the child's case.

*Advantages to the Child, Parent(s) or Guardian(s) and Community to Having Cases Handled by the Youth Commission*

The advantage to the child, parent(s) or guardian(s), and the community, are all somewhat different.

To the child, having their case handled by the Youth Commission means that they will avoid the Juvenile Court process and given possibly, a well deserved second chance. In the event that the child successfully completes the Youth Commission program, the final disposition in the case will be exposed to positive adult influence within the community that may have a substantial impact on the child not only now, but in the future as well.

The advantage to the parent(s) or guardian(s) of the child is similar in many ways to the advantages afforded to the child. The parent(s) or guardian(s) are able to avoid the normal Juvenile Probation and Juvenile Court process which can be time consuming and expensive. The Youth Commission proceedings more than likely will be conducted during non-business hours which makes attending a Youth Commission Hearing and supervision meeting more convenient especially to parent(s) or guardian(s) who are employed and do not have the luxury of sick, personal, or vacation days. The Youth Commission process also means that their child will not have a Juvenile Court record if the child successfully completes the program which many times has much more importance and significance to the parent(s) or guardian(s) than it does to the child.

The community's benefits are wide ranging in nature. First of all, the Youth Commission provides the community with an opportunity to begin taking ownership for the fact that the children in their community are committing criminal offenses and it is the community's responsibility to do something about the problem instead of assuming that some legal, judicial, or governmental entity will step in and solve the community's problems.

The next major advantage is that the Youth Commission may be used as a stepping stone to motivate community members and leader to actively engage in activities or programs to help prevent delinquency. It is hoped that with community members assuming responsibility for the children in their neighborhoods, they will use their energy and creativeness to take steps to prevent the problem before it develops.

Another subtle advantage to the Youth Commission process is community protection. The communities, through its members, become more aware of the level of crime that exists in their neighborhoods, and therefore, will be able to better protect themselves by close supervision or monitoring of the children responsible for these crimes.

As part of the building process communities and the Youth Commission will work collaboratively in the development of community service programs which will benefit both the Youth Commission and the Juvenile Probation Office, and will involve not only children under the direct supervision of the Youth Commission but also children being supervised by the Juvenile Probation Office.

Another aspect that will hopefully be instituted as part of the Youth Commission will be the development of victim/ offender panel discussions where victim's of crime will meet with groups of offenders to discuss the personal impact that crime has played in the victim's life. The

development of these types of programs, run by volunteers, could have immeasurable impact on children in all stages of the Juvenile Justice System.

A final benefit to the community is economic in nature. By diverting a child away from a criminal path, the Youth Commission provides judicial economy and saves the community significant amounts of money. The cost of institutional cases continues to sky rocket, and these costs are paid directly by local, state, and federal tax dollars.

The economic impacts on sections of a community that are high in crime are immeasurable as the value to individual members of a community to live in a safe community. The impact of the efforts put forth by a Youth Commission and its members as well as any ancillary programs that may develop as a result of a Youth Commission's existence will not be seen immediately. However, the positive results of efforts associated with these programs continue to become visible and comparative within 3 to 5 years down the road.

*Expungement of Records*

Cases receiving supervision by the Youth Commission are eligible for expungement as per the provisions of 18 Pa.C.S. Section 9123. Children who have successfully completed their supervision through the Youth Commission may request that their record be expunged by contact the YC Coordinator.

The YC Coordinator will determine the child's eligibility as per the above statute as well as reviewing whether all fines, costs, and restitution have been paid in full before a case handled by the Youth Commission may be expunged.

In the event that at the time a request is made by the juvenile to expunge his/her Juvenile Court Record the only record maintained by the Juvenile Probation Office is the one that was subject to the supervision by the Youth Commission, there will be a minimal fee of \$25.00 associated with the expungement for the filing and processing of the request.

[Pa.B. Doc. No. 13-1027. Filed for public inspection June 7, 2013, 9:00 a.m.]

## DISCIPLINARY BOARD OF THE SUPREME COURT

### Notice of Suspension

Notice is hereby given that Scott Browning Gilly having been suspended from the practice of law in the Southern District of New York for a period of 1 year by Opinion and Order of the United States District Court for the Southern District of New York entered February 5, 2013, the Supreme Court of Pennsylvania issued an Order on May 20, 2013, suspending Scott Browning Gilly from the practice of law in this Commonwealth for a period of 1 year, to take effect on June 19, 2013. In accordance with Rule 217(f), Pa.R.D.E., since this formerly admitted attorney resides outside 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. 13-1028. Filed for public inspection June 7, 2013, 9:00 a.m.]

# SUPREME COURT

## Rescission of Directive to Administrative Judges Appointed by the Supreme Court; No. 407 Judicial Administration Doc.

### Order

#### *Per Curiam*

*And Now*, this 24th day of May, 2013, it appearing that Paragraph (5) of the Directive adopted on April 11, 1986 is obsolete, *see* No. 55 Judicial Administration Docket No. 1 (April 11, 1986), it is hereby *Ordered* that Paragraph (5) of the Directive is rescinded, and the Administrative Judges who preside over and administer a division of a court which has three or more judges are no longer required to maintain monthly work records regarding the performance of each judge within the division as set forth in Paragraph (5). This Order shall be effective immediately.

[Pa.B. Doc. No. 13-1029. Filed for public inspection June 7, 2013, 9:00 a.m.]