

THE COURTS

Title 201—RULES OF JUDICIAL ADMINISTRATION

[201 PA. CODE CH. 51]

Proposed Adoption of Pa.R.J.A. Nos. 5101—5106

The Custody of Exhibits Workgroup is considering proposing to the Supreme Court of Pennsylvania the adoption of Pa.R.J.A. Nos. 5101—5106, establishing statewide standards for the custody and retention of trial exhibits, for the reasons set forth in the accompanying explanatory report. Pursuant to Pa.R.J.A. No. 103(a)(1), the proposal is being published in the *Pennsylvania Bulletin* for comments, suggestions, or objections prior to submission to the Supreme Court.

Any reports, notes, or comments in the proposal have been inserted by the Workgroup for the convenience of those using the rules. They neither will constitute a part of the rules nor be officially adopted by the Supreme Court.

The Workgroup invites all interested persons to submit comments, suggestions, or objections in writing to:

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All communications in reference to the proposal should be received by June 5, 2019. E-mail is the preferred method for submitting comments, suggestions, or objections; any e-mailed submission need not be reproduced and resubmitted via mail. The Workgroup will acknowledge receipt of all submissions.

By the Custody of Exhibits Workgroup

HONORABLE JOHN F. CHERRY,
Chair

(Editor's Note: The following chapter is proposed to be added and printed in regular type to enhance readability.)

Annex A

TITLE 201. RULES OF JUDICIAL ADMINISTRATION

CHAPTER 51. CUSTODY OF EXHIBITS IN COURT PROCEEDINGS

Rule

- 5101. Definitions.
- 5102. Role of the Custodian.
- 5103. Custody of Exhibits. General Provisions.
- 5104. Custody of Exhibits. Special Provisions.
- 5105. Local Rules. Prohibition.
- 5106. Confidentiality. Exhibits Under Seal.

Rule 5101. Definitions.

“Court” means the Supreme Court, the Superior Court, the Commonwealth Court, or a court of common pleas.

“Court proceeding” means any trial, hearing, argument or similar event before a judge, panel or hearing officer where evidence, if entered, is on the record.

“Custodian” means the person or persons designated by local rule to safeguard and maintain exhibits offered into evidence in a court proceeding. Custodian shall also include the custodian’s designee.

“Exhibit” means a document, record, object, photograph, model, or similar item offered into evidence, whether or not admitted, in a court proceeding.

“Local rule” means a local rule of judicial administration, however titled, adopted by a judicial district or an Internal Operating Procedure adopted by an appellate court.

“Judicial district” means a geographic area established by the General Assembly of Pennsylvania in which a court of common pleas is located.

“Proponent” means a party seeking the admission of an exhibit into the record in a court proceeding.

“Records office” means the entity with the responsibility and function to maintain and retain the official case file and list of docket entries as required by rule or law.

Comment

See also definitions in Pa.R.J.A. No. 102 for additional terms used in this chapter. The definition of “court proceeding” includes, but is not limited to, civil and criminal trials, ancillary arguments and hearings, as well as divorce, custody, support, delinquency and dependency hearings before hearing officers and made of record. The definition of “court proceeding” does not include proceedings before a magisterial district court, non-record proceedings before the Philadelphia Municipal Court, judicial arbitration matters pursuant to Pa.R.C.P. Nos. 1301 *et seq.*, or any other matter that is not a record proceeding. A “custodian” will either be a member of court staff who is typically present at court proceedings, such as a court reporter or clerk of court, or the proponent of the exhibit. *See* Rule 5102. The definition of “exhibit” includes items admitted and rejected by the court after being offered into evidence by a proponent. The definition of “judicial district” is derived from 42 Pa.C.S. § 901. A “records office” includes the prothonotary of a court, the clerk of courts, the clerk of an orphans’ court, or the equivalent office by whatever name known.

Rule 5102. Role of the Custodian.

(A) The president judge shall by local rule of judicial administration appoint a custodian to safeguard and maintain exhibits offered into evidence in all court proceedings.

(B) The custodian shall safeguard and maintain all exhibits offered into evidence by a proponent during court proceedings, regardless of whether an exhibit is admitted or rejected by the court.

(C) The custodian shall be responsible for ensuring that all exhibits are filed with the records office and made part of the record on appeal no later than five business days after the conclusion of the court proceeding.

Comment

A local rule of judicial administration will designate a custodian, who will either be a member of court staff who is typically present at court proceedings, such as a court reporter or clerk of court, or the proponent of the exhibit. The local rule will identify the custodian by role in the court proceeding and not by name. “Court reporter” has the meaning set forth in Pa.R.J.A. No. 4002.

Rule 5103. Custody of Exhibits. General Provisions.

(A) *During Court Proceedings.* The custodian shall secure and maintain all exhibits during trial or hearing, including breaks and recesses, except as otherwise provided in Rule 5104(D).

(B) *After Court Proceedings.*

(1) The custodian shall return all exhibits to the proponent at the conclusion of the proceeding unless a local rule directs the custodian to ensure that all exhibits are filed with the records office and made part of the record on appeal at the conclusion of the court proceeding or as otherwise directed by the court.

(2) A proponent who takes custody of exhibits at the close of the court proceeding shall:

(a) ensure that all exhibits are filed with the records office in compliance with Rule 5102(C); and

(b) secure and maintain all non-documentary exhibits until:

(i) otherwise directed by the court; or

(ii) in civil matters only, by agreement of the parties.

Comment

The custodian may direct the proponent to secure and maintain exhibits that are bulky, oversized or otherwise physically impractical for the custodian to maintain during court proceedings. See Rule 5104(C)(2).

Paragraph (B) reflects that the local rule may require the filing of exhibits at the close of the proceeding with the records office. Alternatively, the local rule may require that exhibits be returned to the proponent. If so, the proponent must ensure that exhibits are filed with the records office within five business days of the close of the proceeding.

Non-documentary exhibits typically will be returned to the proponent at the conclusion of the court proceeding. See Rule 5104 for special provisions relative to oversized documents, photographs, non-documentary exhibits, and digital media. If the court has concerns about the proponent's ability to retain an exhibit through the exhaustion of all appeals and post-trial actions, the court may direct other provisions for securing the exhibit. The court should take into consideration the possibility that a proponent may be incapable or unable to maintain and secure an exhibit, as well as the possibility that a proponent may tamper with or otherwise permit the degradation of an exhibit.

Use of the phrase "civil matters" in subparagraph (B)(2)(b)(ii) includes matters brought pursuant to the Pennsylvania Rules of Civil Procedure, Pennsylvania Orphans' Court Rules, dependency actions brought pursuant to the Pennsylvania Rules of Juvenile Court Procedure, and matters brought before an appellate court within its original jurisdiction pursuant to Pa.R.A.P. 106.

Rule 5104. Custody of Exhibits. Special Provisions.

(A) *Documentary Exhibits.*

(1) If a proponent offers into evidence an exhibit such as a letter, report, drawing, map, photograph or other document that is larger in size than 8-1/2 × 11 inches, the proponent shall ensure that a copy of the document reduced to 8-1/2 × 11 inches (or smaller) is entered into the record.

(2) A proponent who provides a reduced copy of an oversized exhibit shall be responsible for ensuring that

the reproduced document is clear and capable of further reproduction or transfer to digital media.

(B) *Photographs.*

(1) A proponent who offers into evidence a photograph shall elect to provide the custodian with the original or a copy of the photograph (no larger in size than 8-1/2 × 11 inches) that will be entered into the record.

(2) A proponent who provides a reduced copy of an oversized photograph shall be responsible for ensuring that the reproduced document is clear and capable of further reproduction or transfer to digital media.

(C) *Non-documentary Exhibits—Generally.*

(1) If a proponent offers into evidence a non-documentary exhibit, the proponent shall ensure that a photograph of the exhibit is entered into the record.

(2) If the exhibit is bulky, oversized or otherwise physically impractical for the custodian to maintain, the custodian may direct the proponent offering the exhibit to maintain custody of it and be responsible for securing it during the court proceeding.

(D) *Non-documentary Exhibits—Weapons, Contraband, Hazardous Materials.*

(1) In any proceeding in which weapons, cash, other items of value, drugs or other dangerous materials are offered into evidence, such exhibits shall be

(a) secured by the custodian while the court proceeding is in session;

(b) secured during breaks and recesses by the proponent; and

(c) prohibited from viewing in the jury room. The court may direct alternative viewing arrangements for such exhibits upon the request of the jury.

(2) During the proceeding, the custodian shall exercise all appropriate safeguards necessary to protect the public based on the nature of the exhibit.

(E) *Use of Digital Media.* If a proponent offers into evidence an exhibit in a digital format, it must be transferred to the custodian in a format acceptable to and accessible by the custodian and court.

(F) *Duplicates.* If the authenticity of an exhibit is at issue, the court may direct that the original item, and not a duplicate, be entered into the record.

Comment

If a local rule designates the proponent as the custodian, the proponent will be responsible for the safekeeping of exhibits during the court proceeding.

When documents and photographs are reduced in size and copied to comply with paragraphs (A)-(B) of this rule, the proponent must ensure that the quality of the document or photograph is not compromised. All documentary exhibits must be capable of clear reproduction. Paragraph (B) recognizes that a proponent may have a sentimental attachment to a photograph and may not want to relinquish it for inclusion in the record.

In paragraph (C), non-documentary exhibits covers a broad spectrum of objects, including, but not limited to, jewelry, clothing, automobiles, furniture, as well as the items listed in paragraph (D).

In paragraph (D), the phrase "weapons, cash, drugs or other dangerous materials" includes, but is not limited to, guns, knives, explosives, controlled substances, narcotics, intoxicants, currency, money, negotiable instruments,

toxic materials, and biohazards. For purposes of this rule, “secured” means inaccessible by unauthorized persons. See *UJS Pennsylvania Court Safety Manual* for best practices on firearms handling. Courts should consider additional safety measures if substances likely to cause bodily harm are present in the courtroom, for example, fentanyl and its derivatives, or other substances known to be especially lethal or toxic.

With regard to the use of media in the courtroom, technology is constantly evolving and judicial districts have access to varying levels of technology. As set forth in paragraph (E), a proponent offering an audio, visual, or computer file into evidence is solely responsible for ensuring the court has the means to access it during a court proceeding. Current technology may include the use of portable formats, such as flash drives and compact discs.

With regard to other limitations on the use of duplicates, see Pa.R.E. 1003.

Rule 5105. Local Rules. Prohibition.

(A) *Content of Local Rules.* Every judicial district shall promulgate local rules of judicial administration pursuant to Pa.R.J.A. No. 103(c) establishing the judicial district’s policies and procedures for the custody of exhibits in court proceedings. The local rules shall:

- (1) designate the custodian to safeguard and maintain exhibits introduced in a court proceeding;
- (2) establish standards for the reproduction of oversized or voluminous documentary exhibits; and
- (3) establish standards to ensure exhibits are filed with the records office for incorporation into the docket no later than five business days after the end of the court proceeding.

(B) *Prohibition.* The automated systems of the Unified Judicial System (e.g., Common Pleas Case Management System, Pennsylvania Appellate Court Management System, and PACFile) shall not be used for submitting or storing exhibits as required by this Chapter.

Comment

Local rules include an Internal Operating Procedure adopted by an appellate court. See Rule 5101.

A local rule may designate the proponent as the custodian in court proceedings. When the proponent is designated as the custodian, the proponent will fulfill all the responsibilities of a custodian during the court proceeding and until such time that exhibits are filed with the records office pursuant to these Rules.

The local rule shall designate the filing method, which may include electronic filing, although not via the automated systems of the Unified Judicial System. The designated method of filing exhibits with the records office will depend on the capabilities available to the judicial district. It is anticipated that some judicial districts will require the custodian to file exhibits with the records office immediately following the close of the court proceeding. Other judicial districts may require the proponents to file exhibits with the records office no later than five business days after the close of the court proceeding.

A local court security committee makes recommendations to the president judge on protocols, policies, and procedures that should be implemented to protect the public, court personnel, and court facilities in the event of an emergency. See Pa.R.J.A. No. 1954. The judicial dis-

trict may consult with the local court security committee to identify best practices for the handling of exhibits.

Rule 5106. Confidentiality. Exhibits Under Seal.

(A) If an exhibit offered into evidence contains confidential information or confidential documents as defined in the *Case Records Public Access Policy of the Unified Judicial System of Pennsylvania* (“Policy”), the proponent shall give a copy of the exhibit and a certification prepared in compliance with the Policy and any related local rules to the records office for inclusion in the record no later than five days after the conclusion of the court proceeding.

(B) Any exhibit sealed by the court during the court proceeding shall not be accessible to the public.

Comment

Paragraph (A) of this Rule relates to the confidentiality of information contained in exhibits. Although the Policy does not apply directly to exhibits, important policy considerations are set forth therein, particularly as it relates to personal identification information, as well as highly sensitive financial, medical, and psychological information. While the Policy does not address the handling of non-documentary exhibits, it is expected that parties will adhere to the policy considerations set forth therein and ensure that otherwise confidential information and documents are not made available through the record. Adhering to the guidance of the Policy will ensure that a protected version of the exhibit is maintained in the record for public viewing.

Paragraph (B) recognizes that some exhibits contain such highly sensitive information or images that they are sealed by the court during the court proceeding.

Explanatory Report

Proposed Adoption of Pa.R.J.A. Nos. 5101—5106

The Custody of Exhibits Workgroup (Workgroup) is considering proposing to the Supreme Court of Pennsylvania the adoption of new Rules of Judicial Administration Nos. 5101—5106. These rules will establish statewide standards for the custody and retention of trial exhibits.

The issue of custody of exhibits was initially considered by a Rules Committee following reports of cases where court personnel were found to have misused trial exhibits. The Committee contemplated developing procedural rules that would have prohibited the retention by the court of exhibits consisting of “contraband,” *i.e.*, drugs or weapons. Additionally, the Committee identified issues that could arise from the handling of non-contraband exhibits, such as documentary exhibits that contain confidential information.

The Committee undertook a statewide survey of judicial districts to identify practices relative to custody of trial exhibits. The survey revealed a substantial divergence of practice regarding the custody of exhibits among the judicial districts. Upon review of the survey findings, the Committee realized that there were broader issues related to the custody of exhibits, including the need to retain exhibits for matters on appeal, as well as logistical considerations impacting court administration, such as exhibit storage space. The Supreme Court directed the formation of a workgroup of stakeholders to study local practices and advise whether statewide rules on the custody and retention of exhibits should be promulgated.

A Workgroup was formed, comprised of representatives from stakeholder organizations: the Pennsylvania Conference of State Trial Court Judges, Pennsylvania State

Association of Prothonotaries and Clerks of Court, Pennsylvania Court Reporters Association, Pennsylvania Association of Court Managers, Administrative Office of Pennsylvania Courts, and Supreme Court Rules Committees. The Workgroup met several times, developed draft rules, circulated the draft rules to stakeholder groups for review and comment, and is now publishing the draft rules for public comment.

The framework of the proposed rules relies on a custodian of exhibits to safeguard exhibits entered into evidence in a court proceeding. Under the proposed rules, judicial districts will designate a custodian via local rule, who can be a member of court staff (such as a clerk or court reporter) or the proponent of the exhibit. The proposed rules establish statewide guidelines for the handling of exhibits before and after trial, as well as the handling of documentary exhibits and non-documentary exhibits (e.g., jewelry, clothing, automobiles, furniture, weapons, cash, and contraband). Special provisions have been proposed for the handling of weapons, cash, items of value, drugs or other dangerous materials. The proposed rules address the use of digital media. Finally, the proposed rules reference the *Case Records Public Access Policy of the Unified Judicial System*, and apply it to exhibits filed with a records office.

[Pa.B. Doc. No. 19-483. Filed for public inspection April 5, 2019, 9:00 a.m.]

Title 249—PHILADELPHIA RULES

PHILADELPHIA COUNTY

Adoption of Phila.DR.R. 1915.11-1 Parenting Coordination and Amendment of Phila.Civ.R. *215 Assignment of Cases in the Trial Division; No. 06 of 2019

Order

And Now, this 25th day of March, 2019, the Board of Judges of Philadelphia County having voted at the Board of Judges' meeting held on February 28, 2019 to adopt Philadelphia Domestic Relations Rule 1915.11-1 Parenting Coordination, and to amend Philadelphia Civil Rule *215 Assignment of Cases in the Trial Division, and the Supreme Court Domestic Relations Procedural Rules Committee and Supreme Court Civil Procedural Rules Committee having reviewed the following proposed rule and amended rule as required by Pa.R.J.A. 103, and having determined that the said local rules are not inconsistent with the applicable statewide rules, *It Is Hereby Ordered and Decreed* that Philadelphia Domestic Relations Rule 1915.11-1 Parenting Coordination, and Philadelphia Civil Rule *215 Assignment of Cases in the Trial Division are adopted and amended as follows.

This General Court Regulation is issued in accordance with Pa.R.J.A. 103 and shall be filed with the Office of Judicial Records (formerly the Prothonotary, Clerk of Courts and Clerk of Quarter Sessions) in a docket maintained for General Court Regulation issued by the First Judicial District of Pennsylvania. As required by Pa.R.J.A. 103(d)(5)(ii), two certified copies of this General Court Regulation and rules shall be distributed to the Legislative Reference Bureau, together with a copy on a computer diskette, for publication in the *Pennsylvania Bulletin*. As required by Pa.R.J.A. 103(d)(6) one certified copy of this General Court Regulation and rules shall be

filed with the Administrative Office of Pennsylvania Courts, shall be published on the website of the First Judicial District at <http://www.philacourts.us>, and shall be incorporated in the compiled set of local rules no later than 30 days following publication in the *Pennsylvania Bulletin*. Copies of the General Court Regulation and local rules shall also be published in *The Legal Intelligencer* and will be submitted to American Lawyer Media, Jenkins Memorial Law Library, and the Law Library for the First Judicial District.

By the Court

HONORABLE IDEE C. FOX,
President Judge,
Court of Common Pleas

PHILADELPHIA FAMILY COURT DIVISION CUSTODY

Philadelphia Local Rule 1915.11-1. Parenting Coordination.

(a) *Appointment of a Parenting Coordinator.*

(1) If the parties agree on a Parenting Coordinator or if the Court deems one necessary, an order will be entered in accordance with Pa.R.C.P. No. 1915.22.

(2) If the parties cannot agree on the selection of a Parenting Coordinator, the Court shall require each party to identify their choice(s) along with the hourly rate of each to all parties. If the parties cannot agree, the Court will select a Parenting Coordinator. The roster of the Court's approved Parenting Coordinators and their stated hourly rates shall be posted at <http://www.courts.phila.gov/>

(3) Any party seeking a pro bono appointment under section (d)(3) below must file with the Clerk of Family Court a Petition to Proceed In Forma Pauperis for the appointment of a Parenting Coordinator within three (3) days of the appointment order absent good cause shown. The In Forma Pauperis form can be found at www.philacourts.us.

(b) *Roster of Approved Parenting Coordinators.*

An attorney or mental health professional seeking to be included on the Philadelphia County Court's roster of qualified individuals to serve as a Parenting Coordinator shall submit an affidavit to the Administrative Family Court Judge or her/his designee together with the following:

(1) An affidavit attesting the applicant has qualifications found in Pa.R.C.P. No. 1915.11-1;

(2) An acknowledgment the applicant has read the Association of Family and Conciliation Courts (AFCC) Parenting Coordinator guidelines and the American Psychological Association (APA) Parenting Coordinator Guidelines; AFCC Parenting Coordinator guidelines are posted at [https://www.afccnet.org/Portals/0/AFCC GuidelinesforParentingCoordinationnew.pdf](https://www.afccnet.org/Portals/0/AFCC%20GuidelinesforParentingCoordinationnew.pdf) and the APA Parenting Coordinator Guidelines are posted at <https://www.apa.org/pubs/journals/features/parenting-coordination.pdf>; and

(3) An acknowledgment that for every 2 fee generated Parenting Coordination assignments, he or she must accept one pro bono assignment (up to 12 hours per pro bono case).

(c) *Parenting Coordinator Recommendations*

(1) Parenting Coordinators shall file their Summary and Recommendations with the Clerk of Family Court

within two (2) days after the last communication with the parties on the issues in accordance with Pa.R.C.P. No. 1915.11-1(f)(2).

(2) *Objections to Parenting Coordinator's Recommendation(s) and Petition for a Record Hearing.*

a. A party objecting to the Recommendations must file with the Clerk of Family Court an original and copy of their Objections and a Petition for a Record Hearing before the Court within five days of service of the Summary and Recommendations together with a Proof of Service upon all parties and the Parenting Coordinator.

b. The Clerk of Family Court shall promptly forward the original Objections and Petition to the Administrative Family Court Judge's Office for assignment to the parties' Family Court Judge to promptly schedule a record hearing. If the matter is an emergency or time-sensitive and the assigned Family Court Judge is not available, the matter will be assigned to the Emergency Custody Judge to conduct a record hearing.

(3) *Court Review of Parenting Coordinator's Recommendations.*

If no objections to the Parenting Coordinator's Recommendation are filed with the Clerk of Family Court within five days of service of the Summary and Recommendation, the Clerk of Family Court shall transmit the file to the Administrative Family Court Judge's Office to be assigned to the appointing Judge, if available, within a reasonable time, otherwise to any Family Court Judge for review of the Recommendation in accordance with Pa.R.C.P. No. 1915.11-1(f)(4).

(d) *Fees*

Parties who request the appointment of a Parenting Coordinator or who are identified by the Court as benefiting from the appointment of a Parenting Coordinator shall pay the Parenting Coordinator as follows:

(1) His or her hourly rate, which may be up to \$300.00 an hour; provided, however, if the parties combined monthly net income exceeds the mandatory minimum set forth in the Support Guidelines at Pa.R.C.P. No. 1910.16-2(e)(2) (currently \$30,000 per month), the Court may adjust the hourly rate;

(2) Absent good cause, each party shall pay up to \$500 as an initial retainer (\$1,000.00 total) which may be reallocated as deemed appropriate by the Parenting Coordinator or the Court. See Pa.R.C.P. No. 1915.22, Order at ¶ 8.

(3) If a party is granted In Forma Pauperis status by the Court specifically for the appointment of a Parenting Coordinator, the Parenting Coordinator so appointed shall serve on a pro bono (no fee) basis, up to 12 hours.

(4) A Parenting Coordinator must accept one pro bono appointment for every two fee generating appointments.

(e) Philadelphia County, through its Administrative Family Court Judge, has entered into a Five County Compact on Parenting Coordination with Chester County, Montgomery County, Delaware County and Bucks County. The terms of that Compact are incorporated herein, and a copy is annexed hereto.

PARENTING COORDINATION PROGRAM

FIVE COUNTY COMPACT

BUCKS, CHESTER, DELAWARE, MONTGOMERY & PHILADELPHIA

An attorney or mental health professional seeking to be included on the roster of qualified individuals to serve as

a Parenting Coordinator in a member County shall submit a letter to the Administrative Judge of the Family Division of one of the member Counties together with the following:

1. Completion of the approved Form Affidavit attesting the applicant has the qualifications as set forth in Pa.R.C.P. No. 1915.11-1(b) "Qualifications of the Parenting Coordinator".

2. The following criteria shall apply to the qualifications:

A. Five hours in the parenting coordination process since August 9, 2018; provided that at least 2 of the 5 hours must be specific to Pennsylvania parenting coordination practice and procedure;

B. Ten hours of family mediation training within the last 10 years (an applicant with 40 hours of mediation training beyond 10 years may satisfy this requirement by verifying the 40 hours of training and significant family mediation practice within the last 10 years);

C. Five hours of training in domestic violence within the past 2 years;

D. Verification of current professional liability insurance via copy of said policy's coversheet/declaration page (which includes the provision of parenting coordination services);

E. Acknowledgement of responsibility to accept pro bono assignments for every 2 paid assignments;

F. Verification of Pennsylvania Act 33 child abuse and Act 34 criminal history clearances within the past two (2) years via copies of same;

G. Acknowledgement that the applicant has read the Association of Family and Conciliation Courts (AFCC) Parenting Coordination Guidelines and the American Psychological Association (APA) Parenting Coordination Guidelines.

AFCC and APA Parenting Coordinator Guidelines are posted at:

<https://www.afccnet.org/Portals/0/AFCCGuidelinesforParentingcoordinationnew.pdf>

<https://www.apa.org/pubs/journals/features/parenting-coordination.pdf>

3. Appointments for pro bono assignments shall be made on a rotating basis by each Court on the list maintained by that County. Each parenting coordinator must accept one (1) pro bono appointment for every two (2) fee-generating appointments in a county.

4. There shall be a twelve (12) hour maximum per year on each pro bono case assigned to a parenting coordinator.

5. Each Parenting Coordinator on the roster shall be required to notify the Court Administration of the applicable County, after they have received two fee generating cases in that County, in order to facilitate the appointment of a pro bono case. The failure to affirmatively report this information by a Parenting Coordinator or to accept a pro bono assignment may subject them to removal from the roster. If a Parenting Coordinator is removed from the roster of a member County for this purpose, they shall share this information with the other member counties.

6. *Fees:*

A. The hourly rate shall not exceed \$300.00 an hour subject to the following exceptions:

a. If the parties combined monthly net income exceeds the mandatory minimum set forth in the Support Guidelines at 1910/16-2(e)(2) (currently \$30,000 per month), the Court may adjust the hourly rate;

b. If a party is granted In Forma Pauperis (IFP) status by the Court for the parenting coordination process.

B. The maximum initial retainer that may be requested shall be \$1,000.

7. Upon being added to the roster of one Member County, a parenting coordinator may be added to the roster of another member County by submitting a letter requesting same with a copy of the approval that was obtained from another member County.

8. A Judge appointing a parenting coordinator may be guided by the parties/counsel in the selection of a specific

parenting coordinator from the County roster (and/or shall otherwise select one from the roster).

9. Each Member County shall establish a Committee to review and consider complaints received about a parenting coordinator and shall recommend removal of a parenting coordinator from the roster of that County for good cause. All complaints received and dispositions of same shall be shared with the other member Counties.

10. The aforementioned review Committee shall consist of the following: Family Court Administrative Judge (or their designee); the Judge who appointed the parent coordinator at issue (or their designee); Court Administrator representative, one family law attorney (from the roster of parenting coordinators) and one mental health professional (from the roster of parenting coordinators).

FORM AFFIDAVIT ATTACHED

APPLICATION TO BE CONSIDERED FOR APPOINTMENT AS A PARENTING COORDINATOR FOR _____ COUNTY

AFFIDAVIT—ATTORNEY

I, _____, the undersigned applicant, hereby certify that I possess the minimum qualifications to serve as a Parenting Coordinator as established by Pa.R.C.P. 1915.11-1(b) and the 5 County Compact entered into by Philadelphia, Bucks, Montgomery, Delaware and Chester Counties, as follows:

- 1. _____ I am licensed to practice in the Commonwealth of Pennsylvania.
 My Attorney ID number is _____ .
 _____ My license is in good standing.
 _____ I have never been subject to attorney discipline. (If Applicant has been subject to discipline, provide details on separate sheet).
 _____ I have practiced family law for _____ years, as follows (or attach CV):

- 2. _____ I have obtained the special training required by the Rule, and have attached verification for each training:
 _____ hours in the Parenting Coordination process, of which 2 or more hours were specific to Pennsylvania PC practice.
 Date of training: _____
 Provider: _____
 _____ hours of Family mediation (or hours of non-specific mediation training and hours of Family Mediation conducted).
 Date of training: _____
 Provider: _____
 _____ hours of Domestic Violence training.
 Date of training: _____
 Provider: _____
- 3. _____ I understand that to remain qualified as a Parenting Coordinator in each 2 year period after March 1, 2019, I must take a minimum of 10 additional continuing education credits, of which at least 2 must be on domestic violence.
- 4. _____ I maintain Professional Liability insurance of \$ _____, which coverage expressly covers me for serving as a Parenting Coordinator. The Declaration page showing the foregoing is attached.
- 5. _____ I acknowledge that I may not charge more than \$300 per hour (although I may charge less), nor require more than a \$1000 initial retainer. My hourly rate for Parenting Coordination is: \$ _____ .

Amendment to Phila.Civ.R. *215(A)(2)

Note: Deleted text is bolded and bracketed; new text is bold and underscored.

Rule *215. Assignment of Cases in the Trial Division.

A. All cases filed in the Trial Division of the Court of Common Pleas shall be listed for trial in accordance with those management procedures in effect for the program to which a case is assigned.

(1) *Arbitration Cases.* All cases which when filed are subject to compulsory arbitration under Philadelphia Civil Rule *1301 shall be assigned a hearing date and time upon commencement on the face of the initial filing.

(2) *Major Jury Cases.* All jury cases, other than Arbitration Appeals and Mass Tort matters, shall be listed for trial by the Judicial Team Leader for that Program to which a given case is assigned in accordance with the pertinent Case Management Order. Protracted and complex cases will be listed for dates certain. Those cases classified standard and expedited typically will be assigned to a trial pool for a given pool month within the appropriate program. **[The “pool month” is defined as the corresponding calendar month.]** **The pool months begin on the first Monday of each month.**

Whether a given case is assigned a date certain or a pool month date is within the sound discretion of the Program Team Leader (or his or her designee).

(3) *Non Jury Cases.* All Non Jury cases will be designated as either Commerce Program or Non Jury Program cases. Commerce Program cases will be listed for trial at a status conference by the Supervising Judge of the Non Jury Program, located at the Complex Litigation Center.

(4) *Mass Tort Cases.* All Mass Tort cases shall be listed for trial by the Supervising Judge of the Mass Tort Program, located at the Complex Litigation Center.

(5) *Arbitration Appeal Cases.* All Arbitration Appeal cases shall be listed for trial by the Supervising Judge at the Complex Litigation Center in a monthly trial pool in accordance with a Case Management Order. **[A “Pool Month” is the corresponding calendar month.]** **The pool month begins on the first Monday of each month.**

B. Jury Trial Requests.

(1) Upon commencement of an action, the plaintiff shall pay the non jury listing fee, or if a jury trial is initially demanded, the jury listing fee.

(2) Thereafter, a jury trial may be demanded and perfected in accordance with Philadelphia Civil Rule *1007.1.

(3) Payment of a jury fee will determine the case program assignment, except in those cases seeking equitable relief which shall be in either the Commerce Program or the Non Jury Program.

Note: Amended May 24, 2000, effective July 9, 2000. **Amended February 28, 2019, effective _____, 2019.**

Comment: This *Rule has been completely rewritten to comport with the principles of differentiated case management and the assignment of cases by program. Counsel are advised to consult, where appropriate, the following General Court Regulations and Administrative Orders:

1. Trial Division General Court Regulation No. 94-2. (Procedure and Criteria for Advanced Trial Listings pursuant to Pa.R.C.P. 214.)

2. [**General Court Regulation No. 95-1. (Day Forward Program. Judicial Team Leader; Trial Division.)**

3.] General Court Regulation No. 95-2. (Day Forward Program. Procedure for Disposition of Major Jury Cases Filed on and after January 2, 1996.)

[**4. Administrative Docket No. 05 of 1994. (Procedure for Disposition of Municipal Court Appeals.)**

5] **3.** Administrative Docket No. 01 of 1998. (Protocol for Trial Pools in the Day Backward and the Day Forward Programs.)

[**6. Administrative Docket No. 06 of 1998. (Scheduling Civil Trials Involving State Prisoners.)**]

Editor’s Note: Amended This rule may be impacted by the following: Administrative Docket No. 01 of 1999, Administrative Docket No. 02 of 2003, General Court Regulation 95-2, Administrative Docket No. 01 of 1998, Administrative Docket No. 02 of 1993, [**General Court Regulation No. 95-1,**] Administrative Docket No. 04 of 2005, Administrative Docket No. 05 of 2005, General Court Regulation No. 2012-01, General Court Regulation No. 2012-03, and General Court Regulation No. 2013-01.

[Pa.B. Doc. No. 19-484. Filed for public inspection April 5, 2019, 9:00 a.m.]

Title 255—LOCAL COURT RULES**LEHIGH COUNTY****Establishing a Central Court for All Persons Charged with Violating Section 3802 of the Vehicle Code (Relating to Driving under the Influence of Alcohol or Controlled Substance); 39-AD-5-2019****Administrative Order**

And Now this 18th day of March, 2019, *It Is Hereby Ordered*, that a Central Court shall be established to conduct preliminary hearings for all court cases where 75 Pa.C.S.A. § 3802 (DUI) is charged, and the Policies and Procedures that follow as Exhibit A shall be adopted.

It Is Ordered that this Administrative Order shall be effective thirty (30) days after publication thereof in the *Pennsylvania Bulletin*.

(a) All criminal complaints filed in Lehigh County on and subsequent to April 15, 2019 where 75 Pa.C.S.A. § 3802 (DUI) is charged, shall be scheduled for DUI Central Court as set forth in the following schedule.

(b) DUI Central Court shall commence June 6, 2019.

It Is Further Ordered that in accordance with Pa.R.Crim.P. 105, the Court Administrator of Lehigh County shall:

(a) File one (1) certified copy hereof with the Administrative Office of the Pennsylvania Courts;

(b) Distribute two (2) certified copies hereof and one (1) CD-Rom copy that complies with the requirements of 1 Pa. Code § 13.11(b), with the Legislative Reference Bureau for publication in the *Pennsylvania Bulletin*;

(c) Incorporate a copy hereof in the complete set of local rules no later than 30 days following publication in the *Pennsylvania Bulletin*;

(d) Publish a copy hereof on the website of the Court of Common Pleas of Lehigh County, Pennsylvania at: <https://www.lccpa.org/rules.nex>;

(e) Supervise the distribution hereof to all Judges of this Court.

By the Court

MARIA L. DANTOS,
Judge

Exhibit A

Lehigh County Court of Common Pleas DUI Central Court Procedures

General Information:

1. All court cases where 75 Pa.C.S.A. § 3802 (DUI) is charged shall be submitted to DUI Central Court at a location to be determined by the President Judge.

2. Preliminary Hearings for all DUI cases shall be scheduled in DUI Central Court on the 1st and 3rd Thursday of every month. If the assigned Thursday falls on a holiday, DUI Central Court shall be on the following Thursday.

a. DUI Central Court dates shall be published on the Court's yearly calendar.

b. The Magisterial District Judge Administrator shall provide notice of said dates, which shall be forwarded to all MDJ's, the District Attorney, the Public Defender, the Sheriff, Lehigh County Adult Probation, Pennsylvania State Police, Lehigh County Department of Corrections, and all municipal police departments within Lehigh County.

3. DUI Central Court shall be presided over by a Magisterial District Judge (MDJ).

a. The MDJ rotation schedule shall be established by the Magisterial District Judge Administrator.

4. The DUI Central Court schedule shall be in hourly block times.

a. The first hourly block shall be 9:00 a.m. Afternoon hourly blocks shall begin at 1:30 with the last block of the day scheduled to begin at 3:30.

b. The number of cases for each block shall be determined by the DUI Supervising Judge in consultation with the Magisterial District Judge Administrator, District Attorney, Public Defender, Adult Probation, and Sheriff.

5. The Magisterial District Judge Administrator shall maintain and provide notice of the DUI Central Court.

DUI Central Court Personnel:

In addition to the assigned MDJ, the following departments shall provide at least one (1) representative on each scheduled DUI Central Court date:

- a. Central Court staff
- b. DUI Criminal Court Clerk
- c. District Attorney's Office
- d. Public Defender's Office
- e. Adult Probation
- f. Lehigh Valley Pre-trial Services
- g. Sheriff
- h. Victim/Witness

Scheduling:

1. Scheduling cases for DUI Central Court shall be the responsibility of the originating MDJ office.

2. Scheduling of cases shall be according to the chart attached hereto and is based on the filing date of the criminal complaint and the DUI Central Court schedule.

3. Defendants and all parties should appear 15 minutes prior to the block time scheduled for their case.

4. Notices shall be provided to the defendant and all parties by the originating MDJ office.

a. The affiant will not be required to attend the first scheduled date. If the defendant does not waive his or her preliminary hearing and requests a hearing, the affiant and any other witnesses shall be notified and issued subpoenas requiring their attendance at the next scheduled preliminary hearing.

5. All requests for continuances shall be made and acted upon in accordance with Pa.R.Crim.P. 542 and Leh.R.Cr.P. 542.

6. All written notifications of continuances shall be in accordance with Pa.R.Crim.P. 542 and Leh.R.Cr.P. 542.

7. In the case of an incarcerated defendant, the Preliminary Hearing shall be scheduled before an MDJ on the next available non-DUI Central Court list.

8. If an incarcerated defendant is released prior to a scheduled Preliminary Hearing on a non-DUI Central Court date, his/her Preliminary Hearing will be rescheduled on to the next available DUI Central Court date and all regular DUI Central Court scheduling procedures shall be followed.

Case Processing:

1. Complaint by Summons:

a. When a complaint is filed in a Magisterial District Court, that case shall be docketed and scheduled by that MDJ Court's staff.

b. The originating MDJ shall schedule the Preliminary Hearing upon appropriate date for DUI Central Court, according to the DUI Central Court schedule and in accordance with procedures established by Court Administration.

c. A summons will be sent to the defendant by MDJ office where the complaint was filed.

d. The summons shall notify the defendant of a Preliminary Hearing in accordance with the applicable Pennsylvania Rules of Criminal Procedure.

e. All case files, including original copy, shall be maintained in the originating MDJ Office.

2. Arraignment of Defendant when Criminal Charges are Filed:

a. Defendants arraigned at the time criminal charges are filed shall have their Preliminary Hearing date scheduled pursuant to Pa.R.Crim.P. 540.

3. Waiver of Preliminary Hearing by a Defendant represented by counsel:

a. Once a case has been scheduled in DUI Central Court, any waivers of a Preliminary Hearing pursuant to Pa.R.Crim.P. 541 shall be coordinated with the originating MDJ.

Case Disposition:

1. *Waiver of Preliminary Hearing at DUI Central Court:*

a. Defendants who waive their right to a Preliminary Hearing at DUI Central Court shall present their request to do so to the presiding MDJ.

2. *Waiver of Preliminary Hearing by a Defendant represented by counsel prior to scheduled DUI Central Court:*

a. Defendants represented by counsel may waive their Preliminary Hearing prior to their scheduled DUI Central Court date pursuant to Pa.R.Crim.P. 541.

(i) Such waiver shall be made to the originating MDJ.

b. Upon receipt of written waiver, the case shall proceed pursuant to the Pennsylvania Rules of Criminal Procedure and corresponding Court Administration procedure.

c. The originating MDJ shall provide defendant and his/her counsel with written information regarding the required Court Reporting Network (CRN) Evaluation.

3. *Preliminary Hearing:* Defendants who do not waive their Preliminary Hearing at their first scheduled hearing date, shall have their case continued to the second (2nd) DUI Central Court date following the date of the hearing request, to be scheduled at a time in the afternoon.

a. All parties shall be notified of the new Preliminary Hearing date pursuant to procedures established by Court Administration.

b. The affiant and any other necessary witnesses shall also be notified and if requested by the Commonwealth, issued a subpoena to appear in Central Court for this date.

4. *Failure to Appear:*

a. If the defendant fails to appear for his/her Preliminary Hearing, the hearing shall be continued to the second (2nd) DUI Central Court date following the date of the hearing request, to be scheduled at a time in the afternoon.

b. All parties shall be notified of the new Preliminary Hearing date pursuant to procedures established by Court Administration.

c. The affiant and any other necessary witnesses shall also be notified and if requested by the Commonwealth, issued a subpoena to appear in Central Court for this date.

d. Should the defendant fail to appear for the new Preliminary Hearing date and service is confirmed, a hearing will be held in absentia in accordance with Pa.R.Crim.P. 543 and a bench warrant shall be issued pursuant to Pa.R.Crim.P. 543(D)(1) by a Judge of the Court of Common Pleas.

Court Reporting Network Evaluation (CRN):

1. Following either waiver or hearing where the charges are bound over to the Court of Common Pleas, a representative from the Adult Probation Department will contact the defendant and schedule a CRN Evaluation.

2. The CRN evaluation is mandatory for all DUI offenders in the Commonwealth of Pennsylvania.

3. The CRN evaluation for all Lehigh County DUI offenders must be completed by a representative of the Lehigh County Adult Probation Office.

4. The defendant will be given a copy of the evaluation results at the conclusion of the appointment. If recommended for further assessment, the defendant will be provided with a list of approved agencies.

<i>Complaint File Date</i>	<i>DUI Central Court Dates</i>
April 16—30, 2019	June 6, 2019
May 1—15, 2019	June 20, 2019
May 16—31, 2019	July 11, 2019
June 1—15, 2019	July 18, 2019
June 16—30, 2019	August 1, 2019
July 1—14, 2019	August 15, 2019
July 15—31, 2019	September 5, 2019
August 1—15, 2019	September 19, 2019
August 16—31, 2019	October 3, 2019
September 1—15, 2019	October 17, 2019
September 16—30, 2019	November 7, 2019
October 1—15, 2019	November 21, 2019
October 16—31, 2019	December 5, 2019
November 1—15, 2019	December 19, 2019
November 16—30, 2019	January 2, 2020
December 1—15, 2019	January 16, 2020
December 16—31, 2019	February 6, 2020
January 1—15, 2020	February 20, 2020
January 16—31, 2020	March 5, 2020
February 1—15, 2020	March 19, 2020
February 16—29, 2020	April 2, 2020
March 1—15, 2020	April 16, 2020
March 16—31, 2020	May 7, 2020
April 1—14, 2020	May 21, 2020

Establishing a Central Court for All Persons Charged with Violating Section 3802 of the Vehicle Code (Relating to Driving under the Influence of Alcohol or Controlled Substance); 39-AD-5-2019

TO THE HONORABLE, THE PRESIDENT JUDGE OF SAID COURT:

The Petition of James B. Martin, District Attorney of Lehigh County respectfully represents that:

1. In January 2018, the Pennsylvania Department of Drug and Alcohol Programs and the Pennsylvania Department of Transportation published a joint report of its analysis and findings regarding Driving Under the Influence Programs and Statutory Compliance.

2. Based on these findings and its analysis, the DUI Treatment Compliance Oversight Committee recommended that county criminal justice and treatment systems commit to the common goal of effectively and efficiently employing the criminal justice system to facilitate successful treatment for offenders charged and convicted or adjudicated for violating Section 3802 of the Vehicle Code, 75 Pa.C.S.A. § 3802 (relating to driving under the influence of alcohol or controlled substance—i.e. “DUI”).

3. Consistency, collaboration among stakeholders, and lack of delay will achieve this result.

4. The establishment of a DUI Central Court will support the furtherance of these goals.

5. In 2017, Lehigh County disposed of 1851 cases where the offender was charged of violating Section 3802 of the Vehicle Code, 75 Pa.C.S.A. § 3802 (relating to driving under the influence of alcohol or controlled substance—i.e. “DUI”).

6. In 2018, 1745 such cases were disposed.

7. According to the aforementioned Joint Report, the average time for a DUI case to reach resolution in Lehigh County is 265 days.

8. Presently, more than 90% of preliminary hearings for those charged with DUI are scheduled and presided over by the Lehigh County Magisterial District Judge (“MDJ”) with jurisdiction. There is inconsistency as to the length of time between arrest and the preliminary hearing or waiver of the hearing.

9. Pursuant to Title 75, Section 3816, all individuals charged with DUI must complete a Court Reporting Network Evaluation (“CRN”) prior to case disposition.

10. The statutory purpose of this evaluation is to determine the extent of a person’s involvement with alcohol and/or controlled substances.

11. In addition to a CRN, pursuant to Title 75, Section 3814, a Drug and Alcohol Evaluation must be completed prior to case disposition if any of the three criteria are met:

a. The offender’s blood alcohol concentration (“BAC”) is .16% or greater;

b. the offender has a prior DUI within the last ten (10) years; or

c. The CRN evaluation indicates a need for counseling and treatment.

12. In the last three (3) years, the average BAC of those charged with DUI was .17%.

13. Presently, upon conclusion or waiver of a preliminary hearing, the MDJ office is to provide the offenders with paperwork regarding the CRN requirement.

14. There is inconsistency in the paperwork being provided as well as inconsistency in accused individuals appearing at a scheduled CRN. It is not uncommon for offenders to appear for their first Court of Common Pleas date having not completed the CRN.

15. Consistency and reduction in delay between arrest, preliminary hearing, and CRN will increase efficacy of treatment and decrease recidivism.

a. An offender is more motivated towards treatment closer to the date of arrest than he or she is as time passes.

b. The sooner the CRN is conducted, the sooner appropriate treatment may begin.

c. Treatment outcomes improve when delays are reduced.

16. The establishment of a DUI Central Court and implementation of uniform policies and procedures will create consistency and reduce delay.

17. A single location for all DUI preliminary hearings will assist all stakeholders in being involved and present from the beginning of a case.

a. An Assistant District Attorney will be present at all scheduled hearings in DUI Central Court to identify potential Accelerated Rehabilitative Disposition (“ARD”) candidates, begin plea negotiations, offer input on bail, and conduct any hearings.

b. An Assistant Public Defender and/or Defense Counsel will be present to meet with clients, and discuss the case as well as potential resolutions with the prosecutor.

c. The Assistant Public Defender will prompt any unrepresented income eligible offenders to apply and obtain immediate representation. This will eliminate the delay that occurs when an unrepresented offender does not seek representation until the case has already progressed to the Court of Common Pleas.

d. The presence of a prosecutor at all scheduled DUI Central Court dates will eliminate the need for the arresting police officer, affiant or other witnesses to appear at the first scheduled date for the DUI preliminary hearing. Their presence would only be required if the offender does not waive their preliminary hearing at that first date. Should this occur, these individuals would be notified to appear for the next scheduled hearing date.

e. Establishment of a DUI Central Court will provide financial benefits and/or savings to Lehigh County taxpayers; municipalities; and police departments by reducing potential over-time pay. In addition, the strain placed on those police departments with limited personnel will be lessened by allowing the officer to remain on duty rather than report for every scheduled DUI preliminary hearing regardless of the status of that case.

Wherefore, your Petitioner, James B. Martin, District Attorney, respectfully prays that Your Honorable Court order that a DUI Central Court be established and the Procedures and Policies set forth in Exhibit A be adopted.

Respectfully submitted,

JAMES B. MARTIN,
District Attorney
455 West Hamilton Street
Allentown, PA 18101
I.D. # 16576

[Pa.B. Doc. No. 19-485. Filed for public inspection April 5, 2019, 9:00 a.m.]