

# THE COURTS

## Title 201—RULES OF JUDICIAL ADMINISTRATION

[ 201 PA. CODE CH. 51 ]

### Order Adopting Rules 5101—5105 of the Pennsylvania Rules of Judicial Administration; No. 596 Judicial Administration Docket

#### Order

##### *Per Curiam*

And Now, this 11th day of September, 2023, the proposal having been published for public comment at 49 Pa.B. 1645 (April 6, 2019), it is Ordered pursuant to Article V, Section 10 of the Constitution of Pennsylvania that:

(a) Pennsylvania Rules of Judicial Administration 5101—5105 are adopted in the attached form.

(b) Local rules of judicial administration deemed necessary to comply with Pa.R.J.A. 5101—5105 shall be promulgated pursuant to Pa.R.J.A. 103(c) to be effective no later than April 1, 2024.

(c) Existing local rules of judicial administration governing the custody of exhibits shall be reviewed by the President Judge or his or her designee for compliance with Pa.R.J.A. 5101—5105. An amendment to an existing local rule of judicial administration governing custody of exhibits deemed necessary shall be promulgated pursuant to Pa.R.J.A. 103(c) to be effective no later than April 1, 2024.

This Order shall be processed in accordance with Pa.R.J.A. 103(b), and shall be effective April 1, 2024.

#### Annex A

### TITLE 201. RULES OF JUDICIAL ADMINISTRATION

#### CHAPTER 51. CUSTODY OF EXHIBITS IN COURT PROCEEDINGS

The following text is entirely new.

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

##### **Rule 5101. Definitions.**

(a) The following words and phrases when used in these rules shall have the following meanings, unless the context clearly indicates otherwise, or the particular word or phrase is expressly defined in the chapter in which the particular rule is included:

(1) “*Court Proceeding.*” Any trial, hearing, argument or similar event before a judge, panel, or hearing officer where evidence, if entered, is on the record. It does not include a proceeding before a magisterial district court, a non-record proceeding before the Philadelphia Municipal Court, a judicial arbitration matter pursuant to Pa.R.Civ.P. 1301 *et seq.*, a hearing before a register of wills pursuant to Pa.R.O.C.P. 10.3, or any matter that is not a record proceeding;

(2) “*Custodian.*” The person or persons designated by local rule of judicial administration to safeguard and maintain exhibits offered into evidence in a court proceeding. The custodian shall either be a member of court staff,

*e.g.*, court reporter, clerk of court, hearing officer, or the proponent of the exhibit. Custodian shall also include the custodian’s designee;

(3) “*Exhibit.*” A document, record, object, photograph, model, or similar item offered into evidence, whether or not admitted, in a court proceeding;

(4) “*Judicial District.*” A geographic area established by the General Assembly of Pennsylvania in which a court of common pleas is located;

(5) “*Local Rule.*” A local rule of judicial administration, however titled, adopted by a judicial district pursuant to Pa.R.J.A. 103(c) or an Internal Operating Procedure adopted by an appellate court;

(6) “*Proponent.*” A party seeking the admission of an exhibit into the record in a court proceeding; and

(7) “*Records office.*” 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.

(b) For any words and phrases not defined by these rules, a meaning may be discerned through examination of its dictionary definition and its legal meaning may be gleaned from its use in an applicable body of law.

#### Comment:

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.

A judicial district may promulgate a local rule to exclude from the provisions of this chapter proceedings that can be appealed *de novo* to a court of common pleas or upon which exceptions or objections can be filed to a court of common pleas. See Pa.R.J.A. 5104(b).

The definition of “exhibit” includes items admitted or 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. Custody of Exhibits. General Provisions.**

(a) *During Court Proceedings.* By local rule, either a member of court staff or the proponent may be designated as the custodian during a court proceeding. The custodian shall secure and maintain all exhibits during a court proceeding, including breaks and recesses, unless otherwise provided in Pa.R.J.A. 5103(c)-(d).

(b) *After Court Proceedings.* By local rule, either a member of court staff or the proponent may be designated as the custodian after court proceedings have concluded.

(1) *Custodian.* The custodian shall:

(i) retain or take custody of all documentary exhibits, photographs, and photographs of non-documentary exhibits accepted or rejected during the court proceeding;

(ii) file all documentary exhibits, photographs, and photographs of non-documentary exhibits with the re-

cords office within five business days of the conclusion of the court proceeding unless otherwise directed by the court; and

(iii) secure and maintain all other non-documentary exhibits as:

- (A) directed by the court; or
- (B) agreed to by the parties.

(2) *Index of Exhibits.* The custodian filing the exhibits with the records office shall include a numbered list of exhibits, and for each exhibit identify the proponent, whether the exhibit was admitted or rejected from evidence, and a textual description or identification of the exhibit.

(3) *Confirmation.* If the exhibits are transferred from a court staff-custodian to a proponent-custodian pursuant to local rule, the court staff-custodian shall confirm that the proponent-custodian has complied with subdivision (b)(1)(ii).

(4) *Relief.* If the custodian does not file the exhibits as required by subdivision (b)(1)(ii), the proponent, if not designated as the custodian or in possession of the exhibits by local rule, may seek appropriate relief with the court.

#### **Comment:**

The custodian, if a member of court staff, 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 Pa.R.J.A. 5103(c)(3).

Subdivision (b) reflects that the local rule shall establish the method for filing exhibits with the records office at the close of the court proceeding. Documentary exhibits, including photographs, filed with the records office are subject to existing record retention schedules. See, e.g., 16 P.S. §§ 13001 *et seq.* (requiring a County Records Committee to establish schedules for the disposal and retention of county records); Pa.R.J.A. 507. A judicial district may establish a local rule on the subject of records retention providing guidance to proponents who are maintaining non-documentary exhibits. See Pa.R.J.A. 5104(a)(4).

Non-documentary exhibits typically will be returned to the proponent at the conclusion of the court proceeding. See Pa.R.J.A. 5103 for special provisions relating 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. The court should also consider any cases that may require special instructions for retention of non-documentary exhibits, such as in capital cases.

The exhibit list required by subdivision (b)(2) will enable the parties to easily determine the contents of a case record.

#### **Rule 5103. 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 x 11 inches, the

proponent shall ensure that a copy of the document reduced to 8-1/2 x 11 inches (or smaller) is entered into the record.

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

##### *(b) Photographs.*

(1) If a proponent offers into evidence a photograph, the proponent shall ensure that the original or a copy of the photograph in lieu of the original (no larger in size than 8-1/2 x 11 inches) is entered into the record.

(2) A proponent who provides a copy of a photograph shall ensure 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 (no larger in size than 8-1/2 x 11 inches) of the exhibit is entered into the record in lieu of the non-documentary exhibit.

(2) A proponent who provides a photograph of a non-documentary exhibit shall ensure that the photograph is clear and capable of further reproduction or transfer to digital media.

(3) If the exhibit is bulky, oversized or otherwise physically impractical for a court staff-custodian to maintain, the court staff-custodian may direct that the proponent offering the exhibit maintain custody of it and secure 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, the proponent shall secure the exhibits while the court proceeding is in session, as well as during all breaks and recesses.

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

(3) Exhibits comprised of weapons, cash, other items of value, drugs, or other dangerous materials are prohibited from viewing in the jury room. The court may direct alternative viewing arrangements for such exhibits upon the request of the jury.

(e) *Use of Digital Media.* A proponent shall ensure that an exhibit in a digital format entered into the record is in a format acceptable to the court.

(f) *Duplicates.* 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. If the proponent is designated as the custodian, in no event is the proponent required to take separate action to transfer an exhibit to himself or herself.

When documents and photographs are reduced in size and copied to comply with subdivisions (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.

Subdivision (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 subdivision (c), non-documentary exhibits comprise a broad spectrum of objects, including, but not limited to, jewelry, clothing, automobiles, furniture, as well as the items listed in subdivision (d). Each judicial district shall promulgate a local rule to establish standards for the handling of non-documentary exhibits that are bulky, oversized, or otherwise physically impractical for the custodian to maintain. *See* Pa.R.J.A. 5104(a)(4).

In subdivision (d), the phrase “weapons, cash, other items of value, 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 bio-hazards. 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.

Neither documentary exhibits of unusual bulk or weight nor non-documentary exhibits should be transmitted unless authorized by a party or by the prothonotary of the appellate court. *See* Pa.R.A.P. 1931(c). In the case of exhibits under subdivision (d) of this rule, such exhibits should only be transmitted by law enforcement personnel who are authorized to transport such items to the appellate court.

Regarding 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 subdivision (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. A judicial district may identify acceptable formats for digital media by local rule.

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

#### **Rule 5104. Local Rule. Prohibition.**

(a) *Content of Local Rule.* Every judicial district shall promulgate a local rule of judicial administration pursuant to Pa.R.J.A. 103(c) establishing the judicial district’s policies and procedures for the custody of exhibits in court proceedings. The local rule shall:

- (1) designate the custodian to safeguard and maintain exhibits introduced in a court proceeding;
- (2) 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;
- (3) establish standards for the reproduction of oversized or voluminous documentary exhibits; and
- (4) establish standards for the maintenance and security of bulky or oversized non-documentary exhibits during and after the court proceeding.

(b) *Optional Provision.* The judicial district may include a provision in its local rule to exclude record hearings that may be appealed *de novo* to a court of

common pleas or upon which exceptions or objections can be filed to a court of common pleas from the provisions of this chapter.

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

#### **Comment:**

A local rule includes an Internal Operating Procedure adopted by an appellate court. *See* Pa.R.J.A. 5101(a)(5) (definition of local rule).

A “custodian” will either be a member of court staff, *e.g.*, court reporter, clerk of court, hearing officer, or the proponent of the exhibit. *See* Pa.R.J.A. 5101(a)(2) (definition of custodian). When the proponent is designated as the custodian, the proponent will fulfill all the responsibilities of a custodian in accordance with Pa.R.J.A. 5102.

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. 1954 (Court Security). The judicial district may consult with the local court security committee to identify best practices for the handling of exhibits.

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.

Subdivision (b) permits a judicial district to exempt certain record hearings from the provisions of this chapter by establishing a local rule. Under this exception, for example, proceedings before hearing officers in divorce, custody, support, delinquency, and dependency matters could be excluded from the general rules. While these proceedings are of record, some judicial districts may find that the burden of compliance outweighs the benefit of a statewide procedure for records handling.

#### **Rule 5105. 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 rule to the records office 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:**

Subdivision (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 in-

formation. 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.

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

### CUSTODY OF EXHIBITS WORKGROUP ADOPTION REPORT

#### Adoption of Pa.R.J.A. 5101—5105

On September 11, 2023, the Supreme Court of Pennsylvania adopted Rules 5101—5105 of the Pennsylvania Rules of Judicial Administration, pertaining to the custody and retention of trial exhibits. The Custody of Exhibits Workgroup has prepared this Adoption Report describing the rulemaking process as it relates to these changes. An Adoption Report should not be confused with Comments to the rules. *See* Pa.R.J.A. 103, cmt. The statements contained herein are those of the Workgroup, not the Court.

The issue of custody of exhibits was initially considered by the Criminal Procedural 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 Criminal Procedural Rules 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.

The Custody of Exhibits Workgroup was 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, and circulated the draft rules to stakeholder groups for review and comment. The Workgroup published the proposal for public comment at 49 Pa.B. 1645 (April 6, 2019). The comment period ran through June 5, 2019. Following review and discussion of public comments, the Workgroup made further revisions to the proposal.

The framework of the rules relies on a custodian of exhibits to safeguard exhibits entered into evidence in a court proceeding. A custodian is defined as:

the person or persons designated by local rule of judicial administration to safeguard and maintain exhibits offered into evidence in a court proceeding. The custodian shall either be a member of court staff, *e.g.*, court reporter, clerk of court, hearing officer, or the proponent of the exhibit. Custodian shall also include the custodian’s designee.

Pa.R.J.A. 5101(a)(2).

The custody of exhibit rules establish statewide guidelines for the handling of exhibits during and after a court proceeding. *See* Pa.R.J.A. 5102. Additionally, certain matters, such as designation of the custodian and establishing standards for maintenance and security of bulky or oversized non-documentary exhibits, are left to local rules subject to Pa.R.J.A. 5104.

Pa.R.J.A. 5102(b) provides specific instructions for filing of documentary exhibits and photographs of non-documentary exhibits with the records office within five days of the conclusion of the court proceeding unless otherwise directed by the court. *See* Pa.R.J.A. 5102(b)(2). These rules are not intended to govern the transmission of records from the trial court to the appellate court. *See, e.g.*, Pa.R.A.P. 1931.

The rules also govern the handling of documentary exhibits and non-documentary exhibits (*e.g.*, jewelry, clothing, automobiles, furniture, weapons, cash, and contraband). *See* Pa.R.J.A. 5103. Special provisions address the handling of weapons, cash, items of value, drugs, or other dangerous materials. *See* Pa.R.J.A. 5103(d). Finally, the rules reference the *Case Records Public Access Policy of the Unified Judicial System* and apply it to exhibits filed with a records office. *See* Pa.R.J.A. 5105.

The rules become effective on April 1, 2024.

[Pa.B. Doc. No. 23-1274. Filed for public inspection September 22, 2023, 9:00 a.m.]

## Title 210—APPELLATE PROCEDURE

### PART I. RULES OF APPELLATE PROCEDURE

[ 210 PA. CODE CHS. 11, 13, 15, 16, 19, 25, 33, 37  
AND 40 ]

**Order Amending Rules 1101, 1112, 1123, 1311,  
1514, 1602, 1925, 2542, 3307, 3309, 3781, and  
4002 of the Pennsylvania Rules of Appellate  
Procedure; No. 307 Appellate Procedural Rules  
Docket**

#### Order

*Per Curiam*

*And Now*, this 11th day of September, 2023, upon the recommendation of the Appellate Court Procedural Rules Committee; the proposal having been submitted without publication pursuant to Pa.R.J.A. 103(a)(3):

It is Ordered pursuant to Article V, Section 10 of the Constitution of Pennsylvania that Rules 1101, 1112, 1123, 1311, 1514, 1602, 1925, 2542, 3307, 3309, 3781, and 4002 of the Pennsylvania Rules of Appellate Procedure are amended in the attached form.

This Order shall be processed in accordance with Pa.R.J.A. 103(b), and shall be effective January 1, 2024.

Additions to the rule are shown in bold and are underlined.

Deletions from the rule are shown in bold and brackets.

**Annex A**

**TITLE 210. APPELLATE PROCEDURE**

**PART I. RULES OF APPELLATE PROCEDURE**

**ARTICLE II. APPELLATE PROCEDURE**

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

**APPEALS FROM COMMONWEALTH COURT AND SUPERIOR COURT**

**Rule 1101. Appeals as of Right from the Commonwealth Court.**

\* \* \* \* \*

(b) *Procedure on [ appeal. ] Appeal.* An appeal within the scope of [ **Subdivision** ] **subdivision** (a) of this rule shall be taken to the Supreme Court in the manner prescribed in Chapter 9 (appeals from lower courts), except that if the notice of appeal is transmitted to the Prothonotary of the Commonwealth Court by means of first class, express, or priority United States Postal Service mail, the notice of appeal shall be deemed received by the prothonotary for the purposes of [ **Rule** ] **Pa.R.A.P.** 121(a) (filing) on the date deposited in the United States mail, as shown on a United States Postal Service Form 3817 Certificate of Mailing, **Form 3800 Receipt for Certified Mail, Form 3806 Receipt for Registered Mail**, or other similar United States Postal Service form from which the date of deposit can be verified. The certificate of mailing or other similar Postal Service form from which the date of deposit can be verified shall be cancelled by the Postal Service, shall show the docket number of the matter in the Commonwealth Court and shall be either enclosed with the notice of appeal or separately mailed to the prothonotary. Upon actual receipt of the notice of appeal the prothonotary shall immediately stamp it with the date of actual receipt. That date, or the date of earlier deposit in the United States mail as prescribed in this subdivision, shall constitute the date when the appeal was taken, which date shall be shown on the docket.

[ **Official Note** ] **Comment:**

\* \* \* \* \*

The United States Postal Service Form 3817 mentioned in [ **Subdivision** ] **subdivision** (b) is reproduced in the [ **note** ] **comment** to [ **Rule** ] **Pa.R.A.P.** 1112 (appeals by allowance).

**PETITION FOR ALLOWANCE OF APPEAL**

**Rule 1112. Appeals by Allowance.**

\* \* \* \* \*

(c) *Petition for [ allowance of appeal. ] Allowance of Appeal.*

(1) \* \* \* \* \*

(2) If the petition for allowance of appeal is transmitted to the Prothonotary of the Supreme Court by means of first class, express, or priority United States Postal Service mail, the petition shall be deemed received by the Prothonotary for the purposes of Pa.R.A.P. 121(a) (filing) on the date shown by the United States Postal Service as the date accepted for posting, as evidenced by a United States Postal Service Form 3817 Certificate of Mailing, **Form 3800 Receipt for Certified Mail, Form 3806**

**Receipt for Registered Mail**, or other similar United States Postal Service form from which the date of deposit can be verified. The certificate of mailing or other similar Postal Service form from which the date of deposit can be verified shall be cancelled by the Postal Service, shall show the docket number of the matter in the appellate court below, and shall be either enclosed with the petition or separately mailed to the Prothonotary.

\* \* \* \* \*

[ **Official Note** ] **Comment:**

\* \* \* \* \*

The United States Postal Service form may be in substantially the following form:

\* \* \* \* \*

The transmittal should be taken *unsealed* to the Post Office, the Form 3817 Certificate of Mailing, **Form 3800 Receipt for Certified Mail, Form 3806 Receipt for Registered Mail**, or other similar United States Postal Service form from which the date of deposit can be verified should be obtained, cancelled, and attached to the petition, and the envelope should only then be sealed. Alternatively, the cancelled Form 3817, **Form 3800, Form 3806**, or other similar United States Postal Service form from which the date of deposit can be verified can be submitted to the Prothonotary under separate cover with clear identification of the filing to which it relates.

It is recommended that the petitioner obtain a duplicate copy of the Form 3817, **Form 3800, Form 3806**, or other similar United States Postal Service form from which the date of deposit can be verified as evidence of mailing. Since the Post Office is technically the filing office for the purpose of this rule, a petition which was mailed in accordance with this rule and which is subsequently lost in the mail will nevertheless toll the time for petitioning for allowance of appeal. However, counsel will be expected to follow up on a mail filing by telephone inquiry to the appellate prothonotary where written notice of the docket number assignment is not received in due course.

\* \* \* \* \*

**Rule 1123. Denial of Appeal; Reconsideration.**

\* \* \* \* \*

(c) *Manner of [ filing. ] Filing.* If the application for reconsideration is transmitted to the prothonotary of the appellate court by means of first class, express, or priority United States Postal Service mail, the application shall be deemed received by the prothonotary for the purposes of Pa.R.A.P. 121(a) (filing) on the date deposited in the United States mail as shown on a United States Postal Service Form 3817 Certificate of Mailing, **Form 3800 Receipt for Certified Mail, Form 3806 Receipt for Registered Mail**, or other similar United States Postal Service form from which the date of deposit can be verified. The certificate of mailing or other similar Postal Service form from which the date of deposit can be verified shall be cancelled by the Postal Service, shall show the docket number of the matter in the court in which reconsideration is sought, and shall be enclosed with the application or separately mailed to the prothonotary. Upon actual receipt of the application, the prothonotary shall immediately stamp it with the date of actual receipt. That date, or the date of earlier deposit in the United States mail as prescribed in this [ **paragraph** ] **subdivision**, shall constitute the date when application was sought, which date shall be shown on the docket.

CHAPTER 13. INTERLOCUTORY APPEALS BY PERMISSION

Rule 1311. Interlocutory Appeals by Permission.

\* \* \* \* \*

(b) *Petition for [ permission to appeal.— ] Permission to Appeal.* Permission to appeal from an interlocutory order listed in [ paragraph ] subdivision (a) may be sought by filing a petition for permission to appeal with the prothonotary of the appellate court within 30 days after entry of such order or the date of deemed denial in the trial court or other government unit with proof of service on all other parties to the matter in the trial court or other government unit and on the government unit or clerk of the trial court, who shall file the petition of record in such trial court. An application for an amendment of an interlocutory order to set forth expressly either the statement specified in 42 Pa.C.S. § 702(b) or the one in Pa.R.A.P. 341(c) shall be filed with the trial court or other government unit within 30 days after the entry of such interlocutory order, and permission to appeal may be sought within 30 days after entry of the order as amended. Unless the trial court or other government unit acts on the application within 30 days after it is filed, the trial court or other government unit shall no longer consider the application and it shall be deemed denied. If the petition for permission to appeal is transmitted to the prothonotary of the appellate court by means of first class, express, or priority United States Postal Service mail, the petition shall be deemed received by the prothonotary for the purposes of Pa.R.A.P. 121(a) (filing) on the date deposited in the United States mail, as shown on a United States Postal Service Form 3817 Certificate of Mailing, **Form 3800 Receipt for Certified Mail, Form 3806 Receipt for Registered Mail**, or other similar United States Postal Service form from which the date of deposit can be verified. The certificate of mailing or other similar Postal Service form from which the date of deposit can be verified shall be cancelled by the Postal Service, shall show the docket number of the matter in the trial court or other government unit, and shall be either enclosed with the petition or separately mailed to the prothonotary. The petitioner must file the original and one copy. Upon actual receipt of the petition for permission to appeal, the prothonotary of the appellate court shall immediately stamp it with the date of actual receipt. That date, or the date of earlier deposit in the United States mail as prescribed in this [ paragraph ] subdivision, shall constitute the date when permission to appeal was sought, which date shall be shown on the docket. The prothonotary of the appellate court shall immediately note the appellate docket number assignment upon the petition for permission to appeal and give notice of the docket number assignment to the government unit or clerk of the trial court, to the petitioner, and to the other persons named in the proof of service accompanying the petition.

\* \* \* \* \*

[ Official Note ] Comment:

\* \* \* \* \*

[ See the Official Note ] See the Comment to Pa.R.A.P. 1112 (appeals by allowance) for an explanation of the procedure when Form 3817, **Form 3800, Form 3806**, or other similar United States Postal Service form from which the date of deposit can be verified is used.

\* \* \* \* \*

CHAPTER 15. JUDICIAL REVIEW OF GOVERNMENTAL DETERMINATIONS

PETITION FOR REVIEW

Rule 1514. Filing and Service of the Petition for Review.

(a) *Filing with the [ prothonotary.— ] Prothonotary.*

(1) The petition for review, with proof of the service that is required by [ paragraph ] subdivision (c) [ of this rule ], shall be filed with the prothonotary of the appellate court in person or by first class, express, or priority United States Postal Service mail.

(2) If the petition for review is filed by first class, express, or priority United States Postal Service mail, the petition shall be deemed received by the prothonotary for the purposes of Pa.R.A.P. 121(a) on the date deposited in the United States mail, as shown on a United States Postal Service Form 3817[ , ] Certificate of Mailing, **Form 3800 Receipt for Certified Mail, Form 3806 Receipt for Registered Mail**, or other similar United States Postal Service form from which the date of deposit can be verified. The certificate of mailing or other similar Postal Service form from which the date of deposit can be verified shall be cancelled by the Postal Service and shall show the docket number of the matter in the government unit, and shall be either enclosed with the petition or separately mailed to the prothonotary.

(3) Upon actual receipt of the petition for review, the prothonotary shall immediately:

[ (1) ] (i) stamp it with the date of actual receipt. That date, or the date of earlier deposit in the United States mail as prescribed in this [ paragraph ] subdivision, shall constitute the date of filing;

[ (2) ] (ii) assign a docket number to the petition for review; and

[ (3) ] (iii) give written notice of the docket number assignment in person or by first class mail to the government unit that made the determination sought to be reviewed, to the petitioner, and to the other persons named in the proof of service accompanying the petition.

\* \* \* \* \*

[ Official Note: See the Official Note ] Comment:

See the Comment to Pa.R.A.P. 1112 (appeals by allowance) for an explanation of the procedure when Form 3817, **Form 3800, Form 3806**, or other similar United States Postal Service form from which the date of deposit can be verified is used.

\* \* \* \* \*

CHAPTER 16. SPECIALIZED REVIEW

IN GENERAL

Rule 1602. Filing.

\* \* \* \* \*

(b) *Deemed [ received on date of mailing.— ] Received on Date of Mailing.*

(1) If the petition for specialized review is transmitted to the prothonotary of the appellate court by means of first class, express, or priority United States Postal Service mail, the petition shall be deemed received by the prothonotary for the purposes of Pa.R.A.P. 121(a) on the date deposited in the United States mail, as shown on a United States Postal Service Form 3817 Certificate of Mailing, **Form 3800 Receipt for Certified Mail, Form**

**3806 Receipt for Registered Mail**, or other similar United States Postal Service form from which the date of deposit can be verified.

(2) The certificate of mailing or other similar Postal Service form from which the date of deposit can be verified shall be cancelled by the Postal Service, shall show the docket number of the matter in the trial court or other government unit and shall be either enclosed with the petition or separately mailed to the prothonotary. Upon actual receipt of the petition for specialized review the prothonotary of the appellate court shall immediately stamp it with the date of actual receipt. That date, or the date of earlier deposit in the United States mail as prescribed in this [ paragraph ] subdivision, shall constitute the date of filing, which date shall be shown on the docket.

(3) The prothonotary of the appellate court shall immediately note the appellate docket number assignment upon the petition and give written notice of the docket number assignment in person or by first class mail to the government unit or clerk of the trial court, to the petitioner and to the other persons named in the proof of service accompanying the petition.

\* \* \* \* \*

**CHAPTER 19. PREPARATION AND TRANSMISSION OF RECORD AND RELATED MATTERS**

**RECORD ON APPEAL FROM LOWER COURT**

**Rule 1925. Opinion in Support of Order.**

\* \* \* \* \*

(b) *Direction to [ file statement of errors complained of on appeal; instructions to the appellant and the trial court.— ] File Statement of Errors Complained of on Appeal; Instructions to the Appellant and the Trial Court.* \* \* \* \* \*

(1) [ *Filing and service.— ] Filing and Service.* The appellant shall file of record the Statement and concurrently shall serve the judge. Filing of record shall be as provided in Pa.R.A.P. 121(a) and, if mail is used, shall be complete on mailing if the appellant obtains a United States Postal Service Form 3817[ , ] Certificate of Mailing, **Form 3800 Receipt for Certified Mail, Form 3806 Receipt for Registered Mail**, or other similar United States Postal Service form from which the date of deposit can be verified in compliance with the requirements set forth in Pa.R.A.P. 1112(c). Service on the judge shall be at the location specified in the order, and shall be either in person, by mail, or by any other means specified in the order. Service on the parties shall be concurrent with filing and shall be by any means of service specified under Pa.R.A.P. 121(c).

\* \* \* \* \*

**CHAPTER 25. POST-SUBMISSION PROCEEDINGS APPLICATION FOR REARGUMENT**

**Rule 2542. Time for Application for Reargument. Manner of Filing.**

(a) *Time.*

(1) [ *General rule.— ] General Rule.* Except as otherwise prescribed by this rule, an application for reargument shall be filed with the prothonotary within 14 days after entry of the judgment or other order involved.

(2) [ *Children’s fast track appeals.— ] Children’s Fast Track Appeals.* In a children’s fast track appeal, an

application for reargument shall be filed with the prothonotary within 7 days after entry of the judgment or other order involved.

(b) *Manner of Filing.*—If the application for reargument is transmitted to the prothonotary of the appellate court by means of first class, express, or priority United States Postal Service mail, the application shall be deemed received by the prothonotary for the purposes of [ Rule ] Pa.R.A.P. 121(a) (filing) on the date deposited in the United States mail as shown on a United States Postal Service Form 3817 Certificate of Mailing, **Form 3800 Receipt for Certified Mail, Form 3806 Receipt for Registered Mail**, or other similar United States Postal Service form from which the date of deposit can be verified. The certificate of mailing or similar Postal Service form from which the date of deposit can be verified shall be cancelled by the Postal Service, shall show the docket number of the matter in the court in which reargument is sought and shall be enclosed with the application or separately mailed to the prothonotary. Upon actual receipt of the application, the prothonotary shall immediately stamp it with the date of actual receipt. That date, or the date of earlier deposit in the United States mail as prescribed in this subdivision, shall constitute the date when application was sought, which date shall be shown on the docket.

[ *Official Note: Former Supreme Court Rule 64, former Superior Court Rules 55 and 58 and former Commonwealth Court Rule 113A required the application for reargument to be filed within ten days of the entry of the order. ]*

**Comment:**

Under [ Rule ] Pa.R.A.P. 105(b) (enlargement of time) the time for seeking reargument may be enlarged by order, but no order of the Superior Court or of the Commonwealth Court, other than an actual grant of reargument meeting the requirements of [ Rule ] Pa.R.A.P. 1701(b)(3) (authority of lower court or agency after appeal), will have the effect of postponing the finality of the order involved under [ Rule ] Pa.R.A.P. 1113 (time for petitioning for allowance of appeal).

[ *The 1986 amendment provided that an application shall be deemed received on the date deposited in the United States mail as shown on a United States Postal Service Form 3817 Certificate of Mailing.*

*The 2008 amendment provides that an application shall be deemed received on the date deposited in the United States mail as shown on a United States Postal Service Form 3817 Certificate of Mailing or other similar United States Postal Service form from which the date of deposit can be verified. ]*

**ARTICLE III. MISCELLANEOUS PROVISIONS**

**CHAPTER 33. BUSINESS OF THE SUPREME COURT**

**ORIGINAL MATTERS**

**Rule 3307. Applications for Leave to File Original Process.**

\* \* \* \* \*

(b) *General [ rule.— ] Rule.* The initial pleading in any original action or proceeding shall be prefaced by an

application for leave to file such pleading, showing service upon all parties to such action or proceeding. The matter will be docketed when the application for leave to file is filed with the Prothonotary of the Supreme Court. The application shall be deemed filed on the date received by the prothonotary unless it was on an earlier date deposited in the United States mail and sent by first class, express, or priority United States Postal Service mail as shown on a United States Postal Service Form 3817 Certificate of Mailing, **Form 3800 Receipt for Certified Mail, Form 3806 Receipt for Registered Mail**, or other similar United States Postal Service form from which the date of deposit can be verified. The certificate of mailing or similar Postal Service form from which the date of deposit can be verified shall be cancelled by the Postal Service, shall show the docket number of the matter, if known, and shall be either enclosed with the application or separately mailed to the prothonotary. Appearances shall be filed as in other original actions. An adverse party may file an answer no later than 14 days after service of the application. The answer shall be deemed filed on the date of mailing if first class, express, or priority United States Postal Service mail is utilized. An adverse party who does not intend to file an answer to the application shall, within the time fixed by these rules for the filing of an answer, file a letter stating that an answer to the application will not be filed. Upon receipt of the answer to the application, or a letter stating that no answer will be filed, from each party entitled to file such, the application, pleadings, and answer to the application, if any, shall be distributed by the prothonotary to the Supreme Court for its consideration.

\* \* \* \* \*

**KING'S BENCH MATTERS**

**Rule 3309. Applications for Extraordinary Relief.**

(a) *General [rule.—]* **Rule.** An application for relief under 42 Pa.C.S. § 726 (extraordinary jurisdiction), or under the powers reserved by the first sentence of Section 1 of the Schedule to the Judiciary Article, shall show service upon all persons who may be affected thereby, or their representatives, and upon the clerk of any court in which the subject matter of the application may be pending. The application shall be deemed filed on the date received by the prothonotary unless it was on an earlier date deposited in the United States mail and sent by first class, express, or priority United States Postal Service mail as shown on a United States Postal Service Form 3817 Certificate of Mailing, **Form 3800 Receipt for Certified Mail, Form 3806 Receipt for Registered Mail**, or other similar United States Postal Service form from which the date of deposit can be verified. The certificate of mailing or similar Postal Service form from which the date of deposit can be verified shall be cancelled by the Postal Service, shall show the docket number of the matter if known and shall be either enclosed with the application or separately mailed to the prothonotary. Appearances shall be governed by [ **Rule** ] **Pa.R.A.P.** 1112 (entry of appearance) unless no appearances have been entered below, in which case appearances shall be filed as in original actions.

\* \* \* \* \*

**CHAPTER 37. BUSINESS OF THE COMMONWEALTH COURT**

**SUMMARY AND FORMAL PROCEEDINGS AGAINST INSURERS**

**Rule 3781. Claim Procedure in Liquidation Proceedings.**

(a) *Filing a [proof of claim.]* **Proof of Claim.**

(1) A creditor asserting a monetary claim against the insurer's estate shall file a proof of claim with the liquidator in accordance with Article V.

(2) In the notice to potential creditors of the insurer's estate, the liquidator shall provide a proof of claim form that complies with Article V.

(3) The completed proof of claim form and supporting documentation shall be filed with the liquidator. A proof of claim form is filed when received by the liquidator except as described below. The liquidator is deemed to have received the proof of claim form on the date of mailing as established by a United States Postal Service Form 3817 Certificate of Mailing, **Form 3800 Receipt for Certified Mail, Form 3806 Receipt for Registered Mail**, or by any similar form from which the date of deposit in the mail can be verified or the date of transmission by facsimile (fax) or electronic mail (e-mail), as documented by the sender's fax or computer. If filing is accomplished by fax, the claimant shall also comply with the requirements of [ **Pa.R.C.P. No.** ] **Pa.R.Civ.P.** 440(d)(2), relating to a fax cover sheet.

\* \* \* \* \*

**CHAPTER 40. APPEALS ARISING UNDER THE PENNSYLVANIA CODE OF MILITARY JUSTICE**

**Rule 4002. Manner of Taking Appeal.**

An appeal shall be taken by filing, in person or by first class, express, or priority United States Postal Service mail, a notice of appeal with the State Judge Advocate for the respective branch of service in which the court-martial has been convened.

If the notice of appeal is filed by first class, express, or priority United States Postal Service mail, the notice shall be deemed received by the State Judge Advocate for the purposes of filing on the date deposited in the United States mail, shown on a United States Postal Service Form 3817[ , ] Certificate of Mailing, **Form 3800 Receipt for Certified Mail, Form 3806 Receipt for Registered Mail**, or other similar United States Postal Service form from which the date of deposit can be verified. The certificate of mailing or other similar Postal Service form from which the date of deposit can be verified shall be cancelled by the Postal Service and shall show the docket number of the matter in the government unit, and shall be either enclosed with the petition or separately mailed to the State Judge Advocate.

**APPELLATE COURT PROCEDURAL RULES COMMITTEE**

**ADOPTION REPORT**

**Amendment of Pa.R.A.P. 1101, 1112, 1123, 1311, 1514, 1602, 1925, 2542, 3307, 3309, 3781, and 4002**

On September 11, 2023, the Supreme Court of Pennsylvania adopted amendments to Rules of Appellate Procedure 1101, 1112, 1123, 1311, 1514, 1602, 1925, 2542, 3307, 3309, 3781, and 4002. The Appellate Court Procedural Rules Committee has prepared this Adoption Report describing the rulemaking process. An Adoption Report should not be confused with Comments to the rules. See Pa.R.J.A. 103, cmt. The statements contained herein are those of the Committee, not the Court.

The Committee proposed the amendment of these rules to update and reference the forms used by the United States Postal Service and commonly accepted by the prothonotaries of the appellate courts as proof of mailing to satisfy Pa.R.A.P. 121. In addition to USPS form 3817 Certificate of Mailing, each rule now specifies that two



commonly used forms, USPS Form 3800 Receipt for Certified Mail and Form 3806 Receipt for Registered Mail, may be used to confirm the date of deposit in the USPS mail. Stylistic revisions to the text of each rule were also made.

The Committee did not previously publish these amendments for comment because they are technical in nature and do not affect current practice or procedure.

The amendments become effective on January 1, 2024.

The following commentary from Pa.R.A.P. 2542 has been removed by this rulemaking:

**Official Note:** Former Supreme Court Rule 64, former Superior Court Rules 55 and 58 and former Commonwealth Court Rule 113A required the application for reargument to be filed within ten days of the entry of the order.

\* \* \* \* \*

The 1986 amendment provided that an application shall be deemed received on the date deposited in the United States mail as shown on a United States Postal Service Form 3817 Certificate of Mailing.

The 2008 amendment provides that an application shall be deemed received on the date deposited in the United States mail as shown on a United States Postal Service Form 3817 Certificate of Mailing or other similar United States Postal Service form from which the date of deposit can be verified.

[Pa.B. Doc. No. 23-1275. Filed for public inspection September 22, 2023, 9:00 a.m.]

## Title 231—RULES OF CIVIL PROCEDURE

### PART I. GENERAL

#### [ 231 PA. CODE CH. 200 ]

#### Proposed Amendment of Pa.R.Civ.P. 220.3

The Civil Procedural Rules Committee is considering proposing to the Supreme Court of Pennsylvania the amendment of Pa.R.Civ.P. 220.3 for the reasons set forth in the accompanying publication report. Pursuant to Pa.R.J.A. 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 report accompanying this proposal was prepared by the Committee to indicate the rationale for the proposed rulemaking. It will neither constitute a part of the rules nor be adopted by the Supreme Court.

Additions to the text of the proposal are bolded and underlined; deletions to the text are bolded and bracketed.

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

Karla M. Shultz, Deputy Chief Counsel  
Civil Procedural Rules Committee  
Supreme Court of Pennsylvania  
Pennsylvania Judicial Center  
PO Box 62635  
Harrisburg, PA 17106-2635  
FAX: 717-231-9526  
civilrules@pacourts.us

All communications in reference to the proposal should be received by November 10, 2023. 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 Committee will acknowledge receipt of all submissions.

*By the Civil Procedural  
Rules Committee*

MAUREEN MURPHY McBRIDE,  
*Chair*

### Annex A

#### TITLE 231. RULES OF CIVIL PROCEDURE

#### PART I. GENERAL

#### CHAPTER 200. BUSINESS OF COURTS

*(Editor's Note:* Pa.R.Civ.P. 220.3 as printed in 231 Pa. Code reads "Official Note" rather than "Note" and the "Explanatory Comment" text is not codified.)

Rule 220.3. [ **Voir Dire.** ] ***Voir Dire of Jurors.***

(a) ***Judge's Presence Required. Voir dire of prospective jurors shall be conducted, and the jurors shall be selected, in the presence of a judge, unless the judge's presence is waived by all parties with the consent of the court.***

(b) ***Instruction of Juror Duties.*** Upon completion of the oath, the judge shall instruct the prospective jurors upon their duties and restrictions while serving as jurors, and of any sanctions for violation of those duties and restrictions, including those in Rules 220.1 and 220.2.

[ (b) ] (c) [ **Voir dire** ] ***Juror Information. Voir dire*** shall be conducted to provide the opportunity to obtain, at a minimum, a full description of the following information, where relevant, concerning the prospective jurors and their households:

- (1) [ **Name** ] ***name***;
- (2) [ **Date** ] ***year*** and place of birth;
- (3) [ **Residential** ] ***residential*** neighborhood and zip code (not street address);
- (4) [ **Marital** ] ***marital*** status;
- (5) [ **Nature** ] ***nature*** and extent of education;
- (6) [ **Number** ] ***number*** and ages of children;
- (7) [ **Name** ] ***name***, age, and relationship of members of prospective juror's household;
- (8) [ **Occupation** ] ***occupation*** and employment history of the prospective juror, the juror's spouse and children, and members of the juror's household;
- (9) [ **Involvement** ] ***involvement*** as a party or a witness in a civil lawsuit or criminal case;
- (10) [ **Relationship** ] ***relationship***, friendship, or association with a law enforcement officer, a lawyer, or any person affiliated with the courts of any judicial district;
- (11) [ **Relationship** ] ***relationship*** of the prospective juror or any member of the prospective juror's immediate family to the insurance industry, including employee, claims adjuster, investigator, agent, or stockholder in an insurance company;
- (12) [ **Motor** ] ***motor*** vehicle operation and licensure;

(13) [ **Physical** ] **physical** or mental condition affecting ability to serve on a jury;

(14) [ **Reasons** ] **reasons** the prospective juror believes [ **he or she** ] **the prospective juror** cannot or should not serve as a juror;

(15) [ **Relationship** ] **relationship**, friendship, or association with the parties, the attorneys, and prospective witnesses of the particular case to be heard;

(16) [ **Ability** ] **ability** to refrain from using a computer, cellular telephone, or other electronic device with communication capabilities in violation of the provisions of Rule 220.1; and

(17) [ **Such** ] **such** other pertinent information as may be appropriate to the particular case to achieve a competent, fair, and impartial jury.

[ **Note: For example, under presently prevailing law as established by the Superior Court, *voir dire* should have been allowed with respect to the effect of pre-trial publicity on prospective jurors' "attitudes regarding medical malpractice and tort reform." *Capoferri v. Children's Hosp. of Phila.*, 893 A.2d 133 (Pa. Super. 2006) (en banc). ]**

[ (c) ] (d) ***Voir Dire by Written Questionnaire Permitted.*** The court may provide for [ **voir dire** ] ***voir dire*** to include the use of a written questionnaire. [ **However, the** ] **The** use of a written questionnaire without the opportunity for oral examination by the court or counsel is not a sufficient [ **voir dire** ] ***voir dire***.

[ **Note: The parties or their attorneys may conduct the examination of the prospective jurors unless the court itself conducts the examination or otherwise directs that the examination be conducted by a court employee. Any dispute shall be resolved by the court.**

**A written questionnaire may be used to facilitate and expedite the voir dire examination by providing the trial judge and attorneys with basic background information about the jurors, thereby eliminating the need for many commonly asked questions. ]**

[ (d) ] (e) ***Individual Voir Dire Permitted.*** The court may permit all or part of the examination of a juror out of the presence of other jurors.

**(f) *Recording of Voir Dire. Voir dire, including all rulings by a judge, shall be recorded in full. The recording shall be transcribed only upon written request of a party or order of court.***

**Comment:**

***Subdivision (a)—The permitted waiver is a waiver only of the judge's physical presence during voir dire. It is not a waiver of a party's opportunity to create a record or to have the judge make decisions based upon that record. This subdivision is also intended to provide flexibility to permit another judge, or a senior judge, in the judicial district to preside over voir dire, as circumstances warrant.***

***Subdivision (c)(17)—See Capoferri v. Children's Hospital of Philadelphia, 893 A.2d 133 (Pa. Super. 2006) (en banc) (voir dire should have been allowed with respect to the effect of pre-trial publicity on***

***prospective jurors' "attitudes regarding medical malpractice and tort reform"), as an example of the type of information that may be sought from potential jurors to achieve a competent, fair, and impartial jury in a particular case.***

***Subdivision (d)—The parties or their attorneys may conduct voir dire of the prospective jurors unless the court itself conducts voir dire or otherwise directs that the voir dire be conducted by a court employee. Any dispute shall be resolved by the court.***

***A written questionnaire may be used to facilitate and expedite the voir dire by providing the trial judge and attorneys with basic background information about the jurors, thereby eliminating the need for many commonly asked questions.***

**Historical Commentary**

**The following commentary is historical in nature and represents statements of the Committee at the time of rulemaking:**

**EXPLANATORY COMMENT—1997**

New Rule 220.1 governing voir dire, the examination of prospective jurors, furthers the goal of establishing a uniform civil practice throughout the Commonwealth with respect to the information which the parties may obtain concerning prospective jurors.

The rule specifies the information which the parties should be able to obtain through voir dire but does not require a particular manner of voir dire. Subdivision (a) is devoted to listing the information to which the parties are entitled.

The rule does not dictate the mechanics of voir dire, but leaves the method of voir dire to the local courts of common pleas. Subdivision (b) does give some guidance, however. Voir dire may include the use of a written questionnaire, but no form of questionnaire is mandated or suggested. The note observes that a written questionnaire may "facilitate and expedite" voir dire by providing basic background information. The rule provides that "the use of a written questionnaire without the opportunity for oral examination is not a sufficient voir dire." The parties are entitled to both hear prospective jurors and observe their demeanor.

The rule recognizes that service upon a jury may be a new and disquieting experience to citizens called as prospective jurors. Information may be sought which a prospective juror feels uncomfortable revealing in open court. Thus, subdivision (c) provides that the "court may permit all or part of the examination of a juror out of the presence of other jurors."

**EXPLANATORY COMMENT—2008**

Rule 220.1 governing *voir dire* has been amended with the addition of a note to subdivision (a)(16). Subdivision (a) lists the information to which parties are entitled to obtain during *voir dire*, concluding with a catch-all provision in subparagraph (16). The note cites *Capoferri v. Children's Hospital of Philadelphia*, 893 A.2d 133 (Pa. Super. 2006) (en banc), as an example of the type of information that may be sought from potential jurors pursuant to subparagraph (16) to achieve a competent, fair and impartial jury in a particular case.

**EXPLANATORY COMMENT—2015**

The Supreme Court of Pennsylvania has adopted new Rules 220.1 and 220.2 and the amendment of current Rules 220.1 and 223.1. The changes are intended to

provide guidance to the bench and bar regarding the use of electronic devices by jurors in civil cases.

The new rules and amendments provide for jurors to be instructed that the use of electronic devices is restricted during their tenure as a prospective juror, *i.e.* a member of the jury pool, and as a selected juror. The new provisions require the trial court to instruct jurors that they may not conduct independent research on the Internet about the case, communicate about the case electronically, *e.g.* “tweet” or “blog,” or use such devices during juror service. A trial court is required to instruct jurors at the earliest opportunity of interaction between the juror and the trial court, and then repeat those instructions as often as practicable. The new rules and amendments provide for sanctions against any person who violates the provisions of these rules. It should also be noted that a note to new Rule 220.1 cross-references Section 1.180 of the Pennsylvania Suggested Civil Jury Instructions, Pa. SSJI (Civ), § 1.180. These instructions specifically address the use of electronic devices by jurors.

While the proposal focuses on the use of electronic devices by jurors, it remains silent as to their use in the courtroom by the public and media. Rule of Judicial Administration 1910 outlines the responsibility of a trial court regarding the broadcasting, televising, or taking of photographs in the courtroom in civil proceedings.

### SUPREME COURT OF PENNSYLVANIA PUBLICATION REPORT

#### Proposed Amendment of Pa.R.Civ.P. 220.3

The Civil Procedural Rules Committee is considering recommending the amendment of Pennsylvania Rule of Civil Procedure 220.3 to require *voir dire* of jurors to be conducted in the presence of a judge unless the parties and the judge agree to waive that requirement.

In *Trigg v. Children’s Hospital of Pittsburgh of UPMC*, 229 A.3d 260 (Pa. 2020), the Supreme Court examined *voir dire* procedures set forth in Allegheny County Local Rule 220.1. Pursuant to this local rule, Allegheny County did not require the trial judge to preside over jury selection. Rather, potential jurors met with a court clerk assigned by the Calendar Control Judge and the parties’ attorneys. The potential jurors were asked standard questions by the clerk; the attorneys were then permitted to ask five additional questions. Follow-up questions were permitted to clarify a juror’s answer. When challenging a juror for cause, the attorneys and the juror returned to the Calendar Control Judge, who read a transcript of the *voir dire* of the juror and then ruled on the challenge for cause.<sup>1</sup>

The trial court in *Trigg* denied the plaintiffs’ request to strike prospective jurors for cause. Instead, the plaintiffs were required to use peremptory challenges. On appeal to the Superior Court, the plaintiffs argued that the trial court erred by failing to observe the demeanor and tenor of prospective jurors during the initial questioning by the court clerk.

In its opinion, the Superior Court acknowledged that deference is given to the trial court in jury selection unless there is a palpable error. See *McHugh v. Proctor & Gamble*, 776 A.2d 266 (Pa. Super. 2001). The court concluded that this standard could not be extended to trial judges who fail to observe *voir dire* in person. It emphasized the importance for the trial judge to view the demeanor of prospective jurors. Without doing so, the

trial judge does not acquire “the wisdom or insight that he could have from noting a jurors’ [sic] furtive glance, a tremor of voice, a delayed reply, a change in posture, or myriads of other body language.” *Trigg v. Children’s Hospital of Pittsburgh of UPMC*, 187 A.3d 1013, 1017 (Pa. Super. 2018). The court stated that “re-questioning prospective jurors could never reproduce the authentic reactions that they displayed when the questions were originally asked,” and concluded that “[a] judge personally witnessing the original *voir dire* is essential, because it justifies our—and a losing party’s—faith in the trial court’s rulings on challenges for cause.” *Id.* at 1017-18.

On appeal to the Supreme Court, the majority vacated and remanded the Superior Court judgment on the basis that the issue had been waived for appellate review because no objection to the trial judge not being present during *voir dire* was placed on the record. Notwithstanding finding waiver, the majority urged the adoption of a Rule of Civil Procedure similar to Pa.R.Crim.P. 631 requiring the judge to preside at *voir dire*.

Both Justice Donohue and Justice Wecht wrote concurring opinions. They each wrote separately to assert the importance of the trial judge presiding over *voir dire* as fundamental to ensuring a fair and impartial jury. Notably, both pointed out the disparity in *voir dire* requirements in the procedural rules. Pa.R.Crim.P. 631 sets forth the mechanics for *voir dire* in criminal jury trials and requires, *inter alia*, *voir dire* to be conducted in the presence of a judge unless the parties and the judge agree to waive that requirement. In contrast, there is a lack of similar specific requirements in the Rules of Civil Procedure; such requirements have been left to the individual courts of common pleas. Both Justices concluded by asserting that this disparity should be referred to the Committee for examination.

Consistent with the Supreme Court’s urging, the Committee undertook review of current practices of *voir dire* in civil cases and the provisions of Pa.R.Crim.P. 631 requiring the judge to preside over *voir dire*. It was reported to the Committee that the practice in counties with a high volume of cases is for the trial judge to perform other duties while jurors are being selected. For example, a judge may be concluding a trial while a jury is being selected for the next trial. Or, a judge may be presiding over a non-jury arbitration appeal while the jurors are selected for the next trial on that judge’s docket. The Committee acknowledges that these practices enhance the efficiency and efficacy of judicial resources to timely try cases. Moreover, the Committee is cognizant that changing these practices may impact judicial operations and create logistical burdens to overcome.

The Committee has incorporated two aspects of Pa.R.Crim.P. 631 into the proposed amendment. The first aspect is new subdivision (a). This subdivision would be added to require a judge to preside over *voir dire* unless the judge’s presence is waived by the parties and with the consent of the court. This provision is intended to comply with the Supreme Court’s directive in *Trigg*. It should be noted that the waiver permitted in subdivision (a) is a waiver only of the judge’s physical presence during *voir dire*. It is not a waiver of a party’s opportunity to create a record or to have the judge make decisions based upon that record. To afford some flexibility to address logistical concerns, this new subdivision is intended to permit another judge, or a senior judge, in the judicial district to preside over *voir dire*, as circumstances warrant. Commentary has been added to advise of these nuances to the proposed amendment.

<sup>1</sup> Allegheny County has subsequently amended Local Rule 212.2 governing pre-trial statements to permit, *inter alia*, a party to request that a judge preside over *voir dire*.

The second aspect is new subdivision (f). This subdivision would require *voir dire* to be recorded in full, including all rulings by the trial judge. The recording would only be transcribed upon the written request of a party or by order of court. Adding this provision will make Rule 220.3 consistent with the procedures in Pa.R.Crim.P. 631.

The Committee also considered whether subdivision (d) (*voir dire* by written questionnaire permitted) should be amended to add procedures addressing the preservation of the written questionnaire as an exhibit to the proceeding for appellate review. At this juncture, the Committee believes that the creation of an adequate record is more a matter of practice than procedure. The Committee specifically requests input from the bench and bar on whether such an amendment is necessary and would provide needed clarity.

\* \* \* \* \*

Accordingly, the Committee invites all comments, objections, concerns, and suggestions regarding this proposed rulemaking.

[Pa.B. Doc. No. 23-1276. Filed for public inspection September 22, 2023, 9:00 a.m.]

## Title 234—RULES OF CRIMINAL PROCEDURE

### [ 234 PA. CODE CH. 5 ]

#### Order Amending Rule 574 of the Pennsylvania Rules of Criminal Procedure; No. 548 Criminal Procedural Rules Docket

##### Order

*Per Curiam*

*And Now*, this 11th day of September, 2023, upon the recommendation of the Criminal Procedural Rules Committee; the proposal having been submitted without publication pursuant to Pa.R.J.A. 103(a):

It is Ordered pursuant to Article V, Section 10 of the Constitution of Pennsylvania that Rule 574 of the Pennsylvania Rules of Criminal Procedure is amended in the attached form.

This Order shall be processed in accordance with Pa.R.J.A. 103(b), and shall be effective January 1, 2024.

Additions to the rule are shown in bold and are underlined.

Deletions from the rule are shown in bold and brackets.

##### Annex A

#### TITLE 234. RULES OF CRIMINAL PROCEDURE CHAPTER 5. PRETRIAL PROCEDURES IN COURT CASES

##### PART G. Procedures Following Filing of Information

(*Editor's Note*: Rule 574 as printed in 234 Pa. Code reads "Official Note" rather than "Note.")

#### Rule 574. Forensic Laboratory Report; Certification In Lieu of Expert Testimony.

[ (A) ] (a) In any trial, the attorney for the Commonwealth may seek to offer into evidence a forensic laboratory report supported by a certification, as provided in

[ paragraph (E) ] subdivision (e), in lieu of testimony by the person who performed the analysis or examination that is the subject of the report.

##### [ (B) ] (b) Notice.

(1) If the attorney for the Commonwealth intends to offer the forensic laboratory report and accompanying certification as provided in [ paragraph (A) ] subdivision (a) as evidence at trial, the attorney for the Commonwealth shall file and serve, as provided in Rule 576, upon the defendant's attorney or, if unrepresented, the defendant a written notice of that fact at the time of the disclosure of the report but no later than 20 days prior to the start of trial.

(2) The notice shall include a statement informing the defendant that, as provided in [ paragraph (C)(3) ] subdivision (c)(3), if no written demand for testimony by the person who performed the analysis or examination that is the subject of the forensic laboratory report is made within 10 days of the service of the notice, the forensic laboratory report and accompanying certification are admissible in evidence without the person who performed the analysis or examination testifying.

(3) Except as provided in [ paragraph (C) ] subdivision (c), the laboratory report and accompanying certification are admissible in evidence to the same effect as if the person who performed the analysis or examination had personally testified.

##### [ (C) ] (c) Demand.

(1) Within 10 days of service of the notice provided in [ paragraph (B) ] subdivision (b), the defendant's attorney, or if unrepresented, the defendant may file and serve, as provided in Rule 576, upon the attorney for the Commonwealth a written demand for the person who performed the analysis or examination that is the subject of the forensic laboratory report to testify at trial.

(2) If a written demand is filed and served, the forensic laboratory report and accompanying certification are not admissible under [ paragraph (B)(3) ] subdivision (b)(3) unless the person who performed the analysis or examination testifies.

(3) If no demand for live testimony regarding the forensic laboratory report and accompanying certification is filed and served within the time allowed by this section, the forensic laboratory report and accompanying certification are admissible in evidence without the person who performed the analysis or examination testifying.

[ (D) ] (d) *Extension*. For cause shown, the judge may:

(1) extend the time period for filing the notice or **for filing** the demand for live testimony[ , ]; or

(2) [ **may** ] grant a continuance of the trial.

##### [ (E) ] (e) Certification.

The person who performed the analysis or examination that is the subject of the forensic laboratory report shall complete a certification in which the person shall state:

(1) the education, training, and experience that qualify him or her to perform the analysis or examination;

(2) the entity by which he or she is employed and a description of his or her regular duties;

(3) the name and location of the laboratory where the analysis or examination was performed;

(4) any state, national, or international accreditations of the laboratory at which the analysis or examination was performed; [ and ]

(5) that the analysis or examination was performed under industry-approved procedures or standards; and

(6) the report accurately reflects the findings and opinions of the person who performed the analysis or examination regarding the results of the analysis or examination.

Comment:

This rule was adopted in 2014 to address the issues raised by the U.S. Supreme Court's decision in *Melendez-Diaz v. Massachusetts*, [ 129 U.S. 2527 ] 557 U.S. 305 (2009), that held that the 6th Amendment confrontation right precluded presentation of laboratory reports without a live witness testifying in the trial. In *Melendez-Diaz*, the U.S. Supreme Court noted with approval the use of "notice and demand" procedures as a means of permitting routine laboratory reports to be admitted without the expense of supporting the admission by live expert testimony while protecting a defendant's confrontation rights.

This rule provides a "notice and demand" procedure for Pennsylvania. Under the rule, the attorney for the Commonwealth may seek to admit a forensic laboratory report as evidence without the testimony of the analyst who performed the testing that was the subject of the report if notice requirements are met and no demand for the presence of the analyst is made. If the defendant makes such a demand, the analyst would be required to testify before the report could be admitted into evidence.

Nothing in this rule is intended to preclude a stipulation agreed to by the parties for the admission of the laboratory report without the analyst's presence.

Nothing in the rule would prevent further stipulation by the parties in light of the admission of the report and certification.

Nothing in this rule is intended to change the requirement for the provision of discovery under Rule 573.

Under [ paragraph (D) ] subdivision (d), the trial judge may permit filing of the notice or demand after the time period required in the rule if the party seeking the late filing shows cause for the delay. In the situation where the judge permits the late filing of the notice, the defendant still has 10 days in which to make the demand for the live testimony of the analyst. This may necessitate a continuance of the trial.

The certification in [ paragraph (E) ] subdivision (e) does not require a description of the actual tests performed for the analysis. This information more properly belongs in the report itself. Since one of the goals of this rule is to permit the defendant to make an informed decision regarding whether to demand the live testimony of the analyst, the report should provide information sufficient to describe the methodology by which the results were determined.

For purposes of this rule, a laboratory is "accredited" when its management, personnel, quality system, operational and technical procedures, equipment and physical facilities meet [ standards established by a recognized state, national, or international accrediting organization such as the American Society of Crime Laboratory Directors/Laboratory Accrediting Board (ASCLD/LAB) or Forensic Quality Services—International (FQS-I) ] the ISO/IEC 17025 standard in

the forensic field of testing as determined by an International Laboratory Accreditation Cooperation recognized accreditation organization that has been evaluated to meet the ISO/IEC 17011 standard and that has expertise in the forensic laboratory accreditation field.

[ Note: New Rule 574 adopted February 19, 2014, effective April 1, 2014.

*Committee Explanatory Reports:*

Final Report explaining new Rule 574 providing for notice and demand procedures regarding forensic laboratory reports published with the Court's Order at 44 Pa.B. 1311 (March 8, 2014). ]

SUPREME COURT OF PENNSYLVANIA  
CRIMINAL PROCEDURAL RULES COMMITTEE

ADOPTION REPORT

Amendment of Pa.R.Crim.P. 574

On September 11, 2023, the Supreme Court amended Pennsylvania Rule of Criminal Procedure 574 governing the admission of a certified forensic lab report in lieu of the expert appearing and testifying in court. The Criminal Procedural Rules Committee has prepared this Adoption Report describing the rulemaking process. An Adoption Report should not be confused with Comments to the rules. See Pa.R.J.A. 103, cmt. The statements contained herein are those of the Committee, not the Court.

The Juvenile Court Procedural Rules Committee was asked to consider a new Rule of Juvenile Court Procedure similar to Pa.R.Crim.P. 574 (Forensic Laboratory Report; Certification In Lieu of Expert Testimony). The proposed rule would govern the admission of a certified forensic lab report in lieu of the expert appearing and testifying in court. One reason for the requested rulemaking was to increase consistency among the bodies of rules for prosecutors and defenders crossing over from criminal proceedings to delinquency proceedings. To that end, the Juvenile Court Procedural Rules Committee published for comment proposed Pa.R.J.C.P. 405. See 52 Pa.B. 7266 (November 26, 2022).

One commenter, the American Association of Laboratory Accreditation, recommended that the Comment not name specific certifying organizations because the certifying organization contained in the Comment no longer exists as named. Instead, the Association suggested referencing the forensic testing standard and the standard for the accrediting body. The Association provided information as to the specific standards. That suggestion was incorporated into the Comment to Pa.R.J.C.P. 405. Because the same certifying organization was referenced in the Comment to Pa.R.Crim.P. 574, the Criminal Procedural Rules Committee has likewise incorporated the Association's suggestion into the Comment to Pa.R.Crim.P. 574. Additionally, Pa.R.Crim.P. 574 has been restyled, subdivision (d) and (e) have been deconstructed to improve readability, and a citation to authority has been corrected.

The following commentary has been removed from Rule 574:

**Official Note:** New Rule 574 adopted February 19, 2014, effective April 1, 2014.

*Committee Explanatory Reports:*

Final Report explaining new Rule 574 providing for notice and demand procedures regarding forensic laboratory reports published with the Court's Order at 44 Pa.B. 1311 (March 8, 2014).

The amendment of Rule 574 becomes effective January 1, 2024.

[Pa.B. Doc. No. 23-1277. Filed for public inspection September 22, 2023, 9:00 a.m.]

## Title 237—JUVENILE RULES

### PART I. RULES

#### [ 237 PA. CODE CH. 4 ]

### Order Adopting Rule 405 of the Pennsylvania Rules of Juvenile Court Procedure; No. 959 Supreme Court Rules Docket

#### Order

*Per Curiam*

And Now, this 11th day of September, 2023, upon the recommendation of the Juvenile Court Procedural Rules Committee, the proposal having been published for public comment at 52 Pa.B. 7266 (November 26, 2022):

It is Ordered pursuant to Article V, Section 10 of the Constitution of Pennsylvania that Pennsylvania Rule of Juvenile Court Procedure 405 is adopted in the attached form.

This Order shall be processed in accordance with Pa.R.J.A. 103(b), and shall be effective on January 1, 2024.

#### Annex A

### TITLE 237. JUVENILE RULES

#### PART I. RULES

#### Subpart A. DELINQUENCY MATTERS

#### CHAPTER 4. ADJUDICATORY HEARING

The following text is entirely new.

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

#### Rule 405. Forensic Laboratory Report and Certification.

(a) *Report and Certification In Lieu of Expert Testimony.*

(1) If the requirements of this rule have been met, the attorney for the Commonwealth may seek to offer a forensic laboratory report into evidence in lieu of testimony in any adjudicatory hearing of a non-detained juvenile.

(2) The report shall be supported by a certification, as provided in subdivision (e), from the expert who drafted the report and performed the analysis or examination.

(b) *Notice.*

(1) The attorney for the Commonwealth shall file the written notice and serve the written notice, together with the report and certification, upon the juvenile's attorney.

(2) The notice shall include a statement informing the juvenile that:

(i) if no written demand for testimony is made within 10 days of the service of the notice, the forensic laboratory report and certification are admissible in evidence, as provided in subdivision (c)(3); and

(ii) the expert who drafted the report does not have to testify.

(3) Service shall occur no later than 20 days prior to the adjudicatory hearing.

(4) Once entered into evidence, the report and certification shall qualify as if the expert had testified personally.

(c) *Demand.*

(1) Within 10 days of service of the notice, the juvenile's attorney may file and serve a written demand upon the attorney for the Commonwealth requiring the expert to testify at the adjudicatory hearing.

(2) If a written demand is filed and served, the expert must testify.

(3) If no demand is filed and served as required by subdivision (c)(1), the report and certification are admissible in evidence without the expert's testimony.

(d) *Extension.* For cause shown, the judge may:

(1) extend the time requirements of this rule; or

(2) grant a continuance of the adjudicatory hearing.

(e) *Certification.* The expert shall complete a certification providing:

(1) the education, training, and experience that qualify the expert to perform the analysis or examination;

(2) the entity by which the expert is employed and a description of the expert's regular duties;

(3) the name and location of the laboratory where the analysis or examination was performed;

(4) any state, national, or international accreditations of the laboratory at which the analysis or examination was performed;

(5) that the analysis or examination was performed under industry-approved procedures or standards; and

(6) the report accurately reflects the findings and opinions of the expert.

#### Comment:

This rule is intended to establish a uniform procedure for delinquency proceedings, similar to Pa.R.Crim.P. 574, for the admission of laboratory reports without the expense of live expert testimony while protecting a juvenile's confrontation rights. The rule provides a "notice and demand" procedure for delinquency proceedings. Under this rule, the attorney for the Commonwealth may seek to admit a forensic laboratory report as evidence without expert testimony if the notice requirements are met and no demand for the presence of the expert is made. If the juvenile makes such a demand, the expert is required to testify before the report can be admitted into evidence.

Given the prompt adjudicatory hearing requirement of the Juvenile Act, 42 Pa.C.S. § 6335(a) (if the juvenile is detained, then the adjudicatory hearing must be held within 10 days of the filing of a petition), this rule is only available for adjudicatory hearings of non-detained juveniles. See Pa.R.J.C.P. 404(B) (if the juvenile is not detained, then the adjudicatory hearing must be held within a reasonable time).

Nothing in this rule is intended to: 1) preclude a stipulation agreed to by the parties for the admission of the report without the expert's presence; 2) prevent further stipulation by the parties in light of the admission of the report and certification; or 3) change the discovery requirements pursuant to Rule 340.

Pursuant to subdivision (d), the court may permit filing of the notice or demand after the time period required in the rule if the party seeking the late filing shows cause

for the delay. In the situation where the judge permits the late filing of the notice, the juvenile still has ten days to make the demand for the live testimony of the expert. This may necessitate a continuance of the adjudicatory hearing.

The certification in subdivision (e) does not require a description of the actual tests performed for the analysis. This information more properly belongs in the report itself. Because one of the goals of this rule is to permit the juvenile to make an informed decision regarding whether to demand the live testimony of the expert, the report should provide information sufficient to describe the methodology by which the results were determined.

For purposes of this rule, a laboratory is “accredited” when its management, personnel, quality system, operational and technical procedures, equipment, and physical facilities meet the ISO/IEC 17025 standard in the forensic field of testing as determined by an International Laboratory Accreditation Cooperation recognized accreditation organization that has been evaluated to meet the ISO/IEC 17011 standard and that has expertise in the forensic laboratory accreditation field.

See Rule 345 for filing and service requirements.

**SUPREME COURT OF PENNSYLVANIA  
JUVENILE COURT PROCEDURAL RULES  
COMMITTEE**

**ADOPTION REPORT**

**Adoption of Pa.R.J.C.P. 405**

On September 11, 2023, the Supreme Court adopted Pennsylvania Rule of Juvenile Court Procedure 405 governing the admission of a certified forensic lab report in lieu of the expert appearing and testifying in court. The Juvenile Court Procedural Rules Committee has prepared this Adoption Report describing the rulemaking process. An Adoption Report should not be confused with Comments to the rules. See Pa.R.J.A. 103, cmt. The statements contained herein are those of the Committee, not the Court.

The Committee was requested to consider a new Rule of Juvenile Court Procedure mirroring Pa.R.Crim.P. 574 (Forensic Laboratory Report; Certification In Lieu of Expert Testimony) governing the admission of a certified forensic lab report in lieu of the expert appearing and testifying in court. The reasons for rulemaking include increased consistency among the bodies of rules for prosecutors and defenders crossing over from criminal proceedings to delinquency proceedings. Also, responses to offers of stipulation are sometimes not received so having a formal mechanism would be beneficial. Further, experts seem increasingly busy, and a rule that operates to relieve the burden of appearing when reports are uncontested would allow the experts to focus on the proceedings where reports are contested and would reduce lab testing backlogs.

The Committee previously published proposed Pa.R.J.C.P. 405, which provided for “notice and demand” procedures nearly identical to Pa.R.Crim.P. 574. See 44 Pa.B. 3306 (June 7, 2014). The Committee ultimately discontinued rulemaking because the timeframes were not compatible with adjudicatory hearings for detained juveniles. See Pa.R.J.C.P. 404(A) (hearing to be held within 10 days of the petition’s filing). Further, several commenters indicated that stipulations were a widely used and effective alternative to live expert witness testimony.

Given the prior comments, the Committee considered a rule largely modeled after Pa.R.Crim.P. 574 but that would exclude juveniles who were in pre-adjudication detention given the 10-day adjudicatory window for detained juveniles. The rate of pre-adjudication detention appears to be declining over time and most detentions now occur post-adjudication. Consequently, the “detention exclusion” would not erode the value of the rule. Additionally, the proposed rule would only be applicable in adjudicatory hearings pursuant to Pa.R.J.C.P. 406; it would not apply to probation revocation hearings.

The proposal was published for comment. See 52 Pa.B. 7266 (November 26, 2022). Two comments were received. The first commenter believed the proposed rule was necessary because stipulations to admit laboratory reports are “not necessarily the norm.”

The second commenter was the American Association for Laboratory Accreditation, which generally supported the rule. The Association recommended that the Comment not name specific certifying organizations because the certifying organization contained in the Comment no longer exists as named. Instead, the Association suggested referencing the forensic testing standard and the standard for the accrediting body. The Association provided information as to the specific standards. That suggestion was incorporated into the Comment.

This rule becomes effective January 1, 2024.

[Pa.B. Doc. No. 23-1278. Filed for public inspection September 22, 2023, 9:00 a.m.]

## Title 255—LOCAL COURT RULES

### LEHIGH COUNTY

#### Administrative Order for Crime Victim Services and Compensation Fund, Local Victim Services Fund; AD 40 2023

##### Administrative Order

And Now this 11th day of September, 2023, pursuant to Act 77 of 2022, Amendments to the Crime Victims Act, Title 18, Section 11.1101, Subsection (b), and the petition of Commonwealth, it is *Hereby Ordered*, this Court Approves the assessment of \$100, unless otherwise ordered by the Court, to the Crime Victim Services and Compensation Fund (“CVSC”) and Local Victim Services Fund. This Cost shall be imposed at both the Magisterial District Courts and the Court of Common Pleas of this Judicial District notwithstanding any statutory provision to the contrary.

Pursuant to Act 77, the disposition of this assessment is hereby *amended* as follows:

(1) Cost imposed under subsection (a) shall be paid into the newly established fund entitled, Crime Victim Services and Compensation Fund (“CVSC”); this fund will replace both existing Crime Victim’s Compensation Fund, and the Victim Witness Services Fund.

(2) 30% of any costs in excess of \$60 shall be paid to Crime Victim Services and Compensation Fund (“CVSC”).

(3) 70% of any costs in excess of \$60 shall be paid to Local Victim Services Fund, to be established and administered by the Lehigh County Fiscal Officer. The money in this fund shall be used only for victim services.

(4) The Lehigh County Fiscal Officer shall disperse money from Local Victim Services Fund at the discretion of the Lehigh County District Attorney.

As stipulated in Act 77 of 2022 as Amended, herein as follows and incorporated into this Order are the “Guidelines for Counties Establishing a Local Victim Services Fund” which was approved by the Victims Services Advisory Committee (VSAC) and approved by the PCCD Commission, to be followed for the administration of the Local Victim Services Fund.

*It Is Ordered* that this Administrative Order shall be effective on the date of this Order.

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

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

(b) File two (2) certified copies and (1) disk copy of this Order with the Legislative Reference Bureau for publication in the *Pennsylvania Bulletin*;

(c) File one (1) certified copy of this Order with Pennsylvania Criminal Procedural Rules Committee;

(d) File one (1) certified copy of this Order with the Clerk of Judicial Records Criminal Division of the Court of Common Pleas of Lehigh County; and

(e) Forward one (1) copy of this Order for publication in the *Lehigh County Law Journal*.

*By the Court*

J. BRIAN JOHNSON,  
*President Judge*

[Pa.B. Doc. No. 23-1279. Filed for public inspection September 22, 2023, 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); No.: 2023-J-0061

##### Administrative Order

*And Now*, this 1st day of September, 2023;

*It Is Ordered* that the Administrative Order entered March 18, 2019 is hereby amended in that the Lehigh County Court of Common Pleas DUI Central Court Procedures following thereto are amended at “DUI Central Court Personnel” subparagraph b. in that “DUI Criminal Court Clerk” is deleted. There shall be no need for the Criminal Court Clerk to attend the DUI Central Court date.

*It Is Further Ordered* that the Court Administrator of Lehigh County shall:

1. File one (1) copy of this Order with the Administrative Office of Pennsylvania Courts.

2. File two (2) copies of this Order, and other copies that comply with the requirement of 1 Pa. Code Section 13.11(b) as necessary, with the Legislative Reference Bureau for publication in the *Pennsylvania Bulletin*;

3. File one (1) copy of this Order with the Clerk of Judicial Records of Lehigh County—Criminal Division for public inspection and copying; and

4. Publish a copy of the amended DUI Central Court Procedures on this Court’s website.

*By the Court*

J. BRIAN JOHNSON,  
*President Judge*

[Pa.B. Doc. No. 23-1280. Filed for public inspection September 22, 2023, 9:00 a.m.]

## ADMINISTRATIVE OFFICE OF PENNSYLVANIA COURTS

### Selection of Special Independent Prosecutor’s Panel

Under 18 Pa.C.S. § 9511(a) (relating to organization of panel), the Court Administrator of Pennsylvania is required to determine and supervise the procedure for selecting members of a Special Independent Prosecutor’s Panel (Panel).

Through a random process conducted in accordance with the statute, the Court Administrator has chosen a Panel composed of one judge of the Superior Court of Pennsylvania and two judges of the Courts of Common Pleas. The judges selected include: the Honorable Deborah A. Kunselman, Judge of the Superior Court of Pennsylvania; the Honorable Chase G. McClister, Judge of the Court of Common Pleas of Armstrong County; and the Honorable Kelley T.D. Streib, Judge of the Court of Common Pleas of Butler County.

As provided by 18 Pa.C.S. § 9511(b), the members of the Panel serve terms of three years. The term of each member of the Panel commences on October 8, 2023.

The Prothonotary of the Superior Court of Pennsylvania serves as the clerk of the Panel. *See* 18 Pa.C.S. § 9511(e).

GEOFF MOULTON,  
*Court Administrator of Pennsylvania*

[Pa.B. Doc. No. 23-1281. Filed for public inspection September 22, 2023, 9:00 a.m.]

## DISCIPLINARY BOARD OF THE SUPREME COURT

### Notice of Administrative Suspension

Notice is hereby given that the following attorneys have been Administratively Suspended by Order of the Supreme Court of Pennsylvania dated August 9, 2023, pursuant to Pennsylvania Rules of Disciplinary Enforcement 219 which requires that all attorneys admitted to practice in any court of this Commonwealth must pay an annual assessment of \$275.00. The Order became effective September 8, 2023.

Notice with respect to attorneys having Pennsylvania registration addresses, which have been administratively suspended by said Order, was published in the appropriate county legal journal.



Abbott, James T.  
Oakton, VA

Adams, Alexandra Barbara  
Costa Mesa, CA

Alfieri, Dante Michael  
Matawan, NJ

Allen, Brian Christopher  
New Britain, CT

Beeker, Teresa Ooley  
Spartansburg, SC

Blust, Peter Francis  
Edgewater Park, NJ

Brennan, Joseph Christopher  
White River Junction, VT

Brooks, Dustin Todd  
Lubbock, TX

Bunis, Lawrence Jay  
Mount Laurel, NJ

Casey, Barbara A.  
Mount Laurel, NJ

Cherry, Bruce A.  
Brooklyn, NY

Concepcion, Theresa  
Sparrows Point, MD

Degnan, Philip J.  
Shamong, NJ

Dickens, Lisa B.  
Bedford, NY

Docken, Andrew William  
Harwich, MA

Dotts, Stephen William  
Newark, DE

Esser, Brittany  
Hoboken, NJ

Fassano, Anthony Michael  
West Collingswood Heights, NJ

Fazio, Roy Christopher  
Broomfield, CO

Fiore, Celeste  
Paramus, NJ

Flatch, Francis M.  
Mansfield, NJ

Frese, Alexis Lauren  
West Hollywood, CA

Galick, Peter Andrew  
Onalaska, WI

Gebauer, Jay A.  
Mount Laurel Township, NJ

Goldberg, Michael Louis  
Fort Lauderdale, FL

Golden, Timothy Joseph  
Walla Walla, WA

Gordner, Cole Jonathan  
Wilmington, DE

Groves, Erika Roxanne  
Durham, NC

Guthrie, Traci J.  
Houston, TX

Hahn, Michael Ross  
Voorhees, NJ

Halden, Virginia  
Kennewick, WA

Hammons, Terrence Gordon, Jr.  
Broadview Heights, OH

Handwerker, Gavin Ira  
Westfield, NJ

Harlan, Michael Daniel  
Canfield, OH

Harms, Julius F., III  
Surprise, AZ

Hughes, Bernard Joseph  
Rainier, OR

Knoerzer, Melissa Rose  
Mount Laurel, NJ

Lack, Craig D.  
Wilmington, DE

Llano, Jennifer De Los Angeles  
Miami, FL

Luther, Cara Jeanne  
Washington, DC

MacLeod, Ryan Scott  
Houston, TX

Margulis, Kaitlyn M.  
Summit, NJ

Marin, James  
High Bridge, NJ

McTiernan, Aileen Elizabeth  
New York, NY

Meredith-Batchelor, Jacklyn  
Logan Township, NJ

Mestecky, Christopher Frank  
Dix Hills, NY

Newcomb, Valerie Spino  
Wenonah, NJ

Norton, Sean Justin  
Pittston, ME

Reger, Samuel Prentis  
Rochester, NY

Reynolds, Charles Edward  
Cherry Hill, NJ

Rickert, Megan Rae  
Portland, OR

Rinaldi, Brian Anthony  
Flemington, NJ

Roberts, Marvin Kirby, III  
Austin, TX

Rosen, Evan S.  
East Windsor, NJ

Ryan, Maureen A.  
Rehoboth Beach, DE

Sawyer, Danielle Marlene  
Georgetown, DE

Schneider, Jordan  
New York, NY

Schwander, Christopher Michael, Jr.  
Newark, DE

Scott, Patricia Marie  
Wilmington, DE

Siegfried, Kirsten Joyce  
Harbeson, DE

Simonini, Michael Louis  
Toms River, NJ

Slider, Mark Joseph  
Ouray, CO

Stepanuk, Kevin D.  
Cape May, NJ

Stewart, Robert E.  
Belhaven, NC

Taieb, Steven Norman  
Mount Laurel, NJ

Washington, Kathryn Ann  
New Orleans, LA

Willard, Paul Martin  
Largo, FL

Willis, Stephen Juan  
Wilmington, DE

Witzer, Brian David  
Los Angeles, CA

Woodward, Thomas Aiken  
Orlando, FL

SUZANNE E. PRICE,  
*Attorney Registrar*

[Pa.B. Doc. No. 23-1282. Filed for public inspection September 22, 2023, 9:00 a.m.]