

THE COURTS

Title 201—RULES OF JUDICIAL ADMINISTRATION

[201 PA. CODE CH. 19]

Adoption of Rules 1950—1954 of the Rules of Judicial Administration Governing Continuity of Operations, Emergency Actions, Emergency Units and Judicial Security; Judicial Administration; Doc. No. 339

Order

Per Curiam:

And Now, this 28th day of December, 2009, *It Is Ordered* pursuant to Article V, Section 10 of the Constitution of Pennsylvania that Rules 1950—1954 of the Pennsylvania Rules of Judicial Administration are adopted as follows.

To the extent that prior distribution and publication of these rules would otherwise be required, it has been determined that immediate promulgation is required in the interest of justice and efficient administration. Pa.R.J.A. No. 103(a)(3).

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

PATRICIA NICOLA,
Chief Clerk

Annex A

TITLE 201. RULES OF JUDICIAL ADMINISTRATION

CHAPTER 19. MISCELLANEOUS ADMINISTRATIVE PROVISIONS

Rule 1950. Definitions.

Emergency—An emergency is an event or events that causes or threatens the destruction or partial destruction of court facilities, significantly interrupts the performance of court operations, or poses a threat to the health or safety of court personnel, court users or the public.

Continuity of Operations—Continuity of operations is the process, during and following an emergency, by which a court maintains at least minimum levels of service.

Court Facility—Court facility includes the courtrooms, judicial chambers, witness rooms, jury deliberation rooms, attorney conference rooms, court administrative offices and any other office or space under the control of or supervised by the judiciary.

President Judge—For the purposes of these Rules, “president judge” refers to the president judge of the judicial district.

Security Incident—A security incident is an event that has the potential to cause, or has in fact caused, personal injury or property damage.

Official Note: See also definitions in Pa.R.J.A. No. 102.

Rule 1951. Continuity of Operations.

(A) Responsibility for Continuity of Operations and Emergency Planning.

(1) The Court Administrator shall establish minimum standards and procedures for continuity of operations and other emergency plans. The standards shall include procedures for periodic review, including the procedures for conducting exercises to ensure the efficacy of the plan.

(2) The president judge has primary responsibility for planning for the continuity of operations in the event of an emergency, and for implementing such plans in his or her judicial district.

Official Note: See also Pa.R.J.A. No. 1954.

(B) Continuity of Operations Plans.

(1) Pursuant to the standards and procedures established by the Court Administrator in Rule 1951(A)(1), the president judge, in conjunction with the district court administrator and any other relevant individuals designated by the president judge shall, in consultation with county emergency service agencies and other governmental entities, develop a plan to provide for the continuity of court operations during and following the occurrence of an emergency.

(2) The continuity of operations plan shall provide for the continuation or immediate resumption of court business by the most expeditious and practical means possible, consistent with continuity of operations standards as established by the Court Administrator.

(3) The president judge shall be responsible for ensuring that the continuity of operations plan is accurate and updated as needed.

(4) On an annual basis, the president judge shall review the continuity of operations plan and shall certify on a form prescribed by the Court Administrator that the review has taken place and that the plan is accurate and meets the requirements established by the Court Administrator.

Comment

Fires. Floods. Hurricanes, earthquakes and tornados. Terrorist attacks. Pandemics. Nuclear and biohazardous accidents (and attacks). The experiences from other states and countries around the world have shown that if any of these events should occur in Pennsylvania, the results could be catastrophic.

State and local governments, and in particular chief judges and court administrators, have learned from the experiences of governments in places where natural and human-made disasters have occurred, for example: the state and city of New York in the aftermath of the 2001 terrorist attacks; the city of Toronto in Canada’s Ontario Province after the 2003 SARS outbreak; the Gulf Coast states, such as Louisiana and Florida in the wake of Hurricane Katrina and other devastating storms; and California, among other states, coping with calamitous wildfires and earthquakes. One lesson learned is that many of the difficulties citizens face during and after an emergency or disaster can be ameliorated if the court system is operational and providing at least its essential functions.

In an attempt to plan and prepare for a wide variety of emergencies that could strike Pennsylvania, the Supreme Court has adopted new Rules of Judicial Administration Nos. 1950—1954. Rules 1951—1953, designed to become operational only in the event of a significant emergency that causes or threatens the disruption of court opera-

tions, were derived in part from “judicial emergency” rules and statutes developed in other states such as Florida, California and Louisiana. The Rules specify that the primary authority and responsibility for continuing court operations rests with the Supreme Court and with the president judges of Pennsylvania’s 60 judicial districts. Rule 1954 consolidates judicial security practices and directives developed over the past several years.

Rule 1951 formalizes the requirement that each judicial district in Pennsylvania develop and practice emergency and continuity of operations plans. Under this Rule, the Court Administrator of Pennsylvania is responsible for establishing standards and procedures for emergency and continuity of operations plans, and the president judges of Pennsylvania’s judicial districts, with the assistance of the district court administrators, are responsible for developing plans for their respective judicial districts. Continuity of operations plans must provide for the continuation or immediate resumption of court business—or at least essential functions—during and immediately following an emergency. The Rule calls for these plans to be reviewed and updated annually.

Rule 1952. Emergency Actions, Duties and Authorities.

(A) Role of Supreme Court

(1) In the event of an emergency that affects court operations in the Commonwealth or in one or more judicial districts, the Supreme Court shall have the authority to declare a judicial emergency generally or in any judicial district affected by the emergency.

(2) By the declaration of a judicial emergency, the Supreme Court may:

(a) suspend or modify statewide or local procedural or administrative court rules;

(b) suspend time calculations for the purposes of time computation relevant to court cases or other judicial business;

(c) direct a court to sit in a location other than its normal place of operations, including outside of its judicial district;

(d) assign judges or court personnel from outside the affected judicial district;

(e) authorize additional uses of advanced communication technology to conduct court proceedings;

(f) take any action listed in Rule 1952(B)(2)(a)-(r) for an individual or multiple judicial districts; and

(g) take any other necessary administrative action regarding judicial staff, court facilities and operations.

Official Note: See also Pa.R.J.A. No. 1952(B)(2) for actions a president judge may take once a judicial emergency has been declared.

See Pa.R.Crim.P. 103 for the definition of advanced communication technology.

See Pa.R.Crim.P. 118 and 119 for general rules governing the use of two-way simultaneous audio-visual communications in criminal proceedings.

(B) Role of the President Judge

(1) In the event of an emergency, the president judge may request authorization from the Supreme Court to declare a judicial emergency in the judicial district. Such declaration shall remain in effect until such time as it is amended, rescinded, modified or superseded by order of the Supreme Court.

(2) If the Supreme Court authorizes the president judge to declare a judicial emergency in the judicial district, and unless limited by the Supreme Court, the president judge shall have the authority to:

(a) order the closure of court facilities until safe operations of the court and its offices can be restored;

(b) order the evacuation of court facilities;

Official Note: Ordering the evacuation of court facilities, when practical under the circumstances, should occur after consultation with members of the local standing court security committee, established under Rule of Judicial Administration No. 1954(A), and relevant law enforcement agencies.

(c) direct the relocation of court operations to safe locations;

(d) take necessary action to provide for (i) the safety of court personnel, court users and the public, and (ii) the security of court facilities, financial and cash operations, equipment and records;

(e) establish a telephone hotline or web site to provide the bench, bar and the public with court and emergency information;

(f) reassign judges or court personnel within the judicial district as needed to ensure the continuation of operations;

Official Note: See also Rule of Judicial Administration No. 1953 for requests for additional judges from within the Emergency Regional Administrative Unit.

(g) expand the duties and work hours of staff to handle emergency matters;

(h) cancel or modify court calendars, subpoenas or other court orders;

(i) cancel or suspend jury and non-jury trials;

(j) cancel or suspend jury duty;

(k) suspend or modify local rules of court and administrative rules or procedures, including personnel policies;

(l) suspend or modify the time requirements and limitations established by local rule;

(m) make application to the Supreme Court to temporarily suspend or modify statewide court rules as applied to any case or cases in the judicial district;

(n) provide for alternative signing, delivery and service of court documents and orders;

(o) extend the duration of any emergency or temporary order (for example, protection from abuse order) issued by a judge or magisterial district judge in the judicial district;

(p) assign custodial responsibility for court funds;

(q) ensure compliance with any Federal, State or local emergency declarations;

(r) order the full or partial implementation of the continuity of operations plan established pursuant to Rule of Judicial Administration No. 1951; and

(s) request additional emergency judicial orders from the Supreme Court as the needs of justice require.

(3) The president judge shall immediately notify the Court Administrator of any emergency occurring within his or her court or judicial district that causes the closure of court facilities, causes the temporary suspension of court operations or causes the full or partial implementation of the court’s continuity of operations plan.

(4) Requests for emergency judicial orders pursuant to Rule 1952(B)(1) or 1952(B)(2)(s) shall be made to the Court Administrator on a form substantially similar to the one appended to this Rule. Upon receiving a request for an emergency judicial order, the Court Administrator shall immediately transmit said request to (1) the Chief Justice of Pennsylvania or another Justice designated by the Chief Justice and (2) to the Supreme Court Prothonotary. Emergency judicial orders may be signed by the Chief Justice or another Justice designated by the Chief Justice to handle emergency applications for relief. Facsimile signatures may be used in lieu of original signatures on emergency judicial orders. Objections to emergency judicial orders from the Supreme Court shall be transmitted to the Supreme Court Prothonotary in a manner prescribed by the Supreme Court.

(5) During an emergency, the provisions of any statewide procedural rules that require submission of local rules, including administrative orders, to the Supreme Court, the Administrative Office of Pennsylvania Courts, a statewide procedural rules committee, or the Legislative Reference Bureau for publication in the *Pennsylvania Bulletin*, shall not apply to any local rules or administrative orders issued in response to the emergency. The president judge of the affected judicial district shall inform the Supreme Court of any local rule or administrative order issued under this paragraph as soon as practicable.

Official Note: See Pa.R.C.P. No. 239, Pa.R.Crim.P. 105, and Pa.R.J.C.P. 121 for local rule adoption procedures.

(C) Role of the Court Administrator

(1) The Court Administrator shall render such assistance as practicable and proper to judicial districts affected by an emergency and to assist in the continuity of operations.

(2) The Court Administrator shall coordinate efforts of the Unified Judicial System to provide relief to judicial districts affected by an emergency, including providing available resources and personnel from other judicial districts.

Official Note: See also Pa.R.J.A. No. 701.

(3) The Court Administrator shall provide information concerning the emergency to appropriate governmental and non-governmental entities in a timely manner.

(4) In the event the Court Administrator is notified of an emergency that causes the temporary closure of court operations, the Court Administrator shall immediately advise the Chief Justice of Pennsylvania, the Governor, the President Pro Tempore of the Pennsylvania Senate and the Speaker of the Pennsylvania House of Representatives of such emergency.

Official Note: See Pa.R.J.A. No. 1952(B)(4) regarding requests for emergency judicial orders.

(5) All requests for emergency judicial orders submitted to the Supreme Court, all emergency judicial orders issued by the Supreme Court, and all emergency judicial orders issued by president judges shall, to the extent possible and practical under the circumstances, be promptly and conspicuously posted on the Unified Judicial System web site.

(D) Role of the District Court Administrator

(1) The district court administrator shall assist the president judge in planning for emergencies and for the continuation of court operations in the event of an emergency.

Official Note: See Pa.R.J.A. Nos. 1951(A)(2) and (B)(1) for the development of continuity of operations plans.

(2) In the event of an emergency, the district court administrator shall assist the president judge in implementing continuity of operations plans.

Official Note: See Pa.R.J.A. No. 1951(A)(2) for the president judge's authority to implement continuity of operations plans.

(3) In the event of an emergency, unless otherwise specified in the continuity of operations plan, the district court administrator shall:

(a) gather information from state and local officials, health and safety personnel, and any other relevant individuals or information sources to advise the president judge if the continuity of operations plan should be activated;

(b) prepare the continuity of operations plan notification for approval by the president judge and disseminate the notification;

(c) coordinate court personnel and resource deployment to an alternate facility;

(d) assist the sheriff and courthouse security in the movement of jurors, prisoners and the public, and assist with the general security of court and alternate facilities;

(e) ensure that all emergency judicial orders are promptly posted conspicuously in the affected judicial district and that they are transmitted to the Court Administrator in as prompt a manner as circumstances permit;

(f) manage alternate facility operations;

(g) provide timely information to the president judge and Court Administrator on the performance of court operations;

(h) ensure personnel issues are addressed and resolved; and

(i) confirm and communicate to the president judge when the emergency situation has ended.

(4) Once normal court operations are resumed, the district court administrator shall communicate with judges, staff and other appropriate individuals and entities to develop an after-action report to be transmitted to the Court Administrator and in conjunction with the continuity of operations plan review mandated in Rule of Judicial Administration No. 1951(B)(4).

Comment

Rule of Judicial Administration No. 1952 clarifies a non-exhaustive list of actions the Supreme Court may order during an emergency. In addition to declaring a "judicial emergency" in one or several judicial districts, the Rule specifies numerous judicial and administrative actions the Supreme Court may order to continue and protect the judicial process, as well as the rights of litigants and the public. In addition, Pa.R.J.A. No. 1952 details the role of the president judges during and after an emergency. Under this Rule, and subject to Supreme Court approval and oversight, the president judges of each judicial district are given wide authority to order that extraordinary measures be taken to protect the public, court users and staff and to continue court operations during and after an emergency.

IN THE SUPREME COURT OF PENNSYLVANIA

In Re: _____ Judicial District—Request for Emergency Judicial Order

1. _____, President Judge of the _____ Judicial District, hereby requests the following relief by Order of the Supreme Court:

a. Authorize the president judge to declare a judicial emergency in this judicial district and take any actions authorized by Pa.R.J.A. No. 1952(B)(2).

b. Suspend or modify statewide procedural or administrative rules in this judicial district as follows:

1. Suspend time calculations for the purposes of time computation within this judicial district for the filing of documents with the court or taking other judicially mandated action. Beginning date _____, ending date _____.

2. Authorize the expanded use of advanced communication technology to conduct court proceedings as follows:

3. Suspend or modify other statewide procedural or administrative rules as follows:

c. Grant other relief as follows:

2. The circumstances necessitating this request for an emergency judicial order are as follows:

3. To the extent possible and practical under the circumstances, notice of this request for an emergency judicial order has been or will be:

___ posted in the courthouse or other judicial office

___ posted on the court's or county's web site

___ posted on the county bar association's web site

___ submitted to the Administrative Office of Pennsylvania Courts for publication pursuant to Rule of Judicial Administration No. 1952(C)(5)

___ published in the legal publication designated by the court for publication of legal notices

___ published in a newspaper of general circulation within the county

4. Interested parties are advised that objections to any emergency judicial order issued by the Supreme Court should be transmitted to the Supreme Court Prothonotary.

Signed:

Dated:

Rule 1953. Emergency Regional Administrative Units.

(A) Within sixty (60) days of the adoption of this Rule, the Court Administrator shall recommend to the Supreme Court the number and designation of "emergency regional administrative units," ensuring that every judicial district in the Commonwealth is included within an "emergency regional administrative unit" with one or more neighboring judicial districts.

Official Note: The units created pursuant to this rule are similar to those created pursuant to Pa.R.J.A. No. 701(E).

(B) In the event of an emergency affecting any court's operations, causing the partial or full implementation of a court's continuity of operations plan under Rule 1951, or if the Supreme Court or president judge declares a judicial emergency under Rule 1952 (A)(1) or (B)(1), the president judge of the affected judicial district or districts

may activate the respective emergency regional administrative unit by providing notice to the Court Administrator. Once activated, judges and magisterial district judges may be temporarily assigned to another judicial district within the emergency regional administrative unit as if the judicial districts were operating within a unit created under Pa.R.J.A. No. 701(E).

(C) All judges and magisterial district judges assigned to another judicial district pursuant to this Rule shall have the same power and authority as that vested in a judge or magisterial district judge of that judicial district.

Official Note: See also Pa.R.J.A. No. 701(E).

(D) Whenever a judge or magisterial district judge is assigned to another judicial district pursuant to this Rule, notice shall immediately be sent to the Court Administrator of Pennsylvania.

(E) All expenses of any jurist assigned to another judicial district pursuant to this Rule shall be reimbursed as provided by law.

Comment

Rule 1953 is designed as a companion to Rule of Judicial Administration No. 701(E). Pursuant to Rule 701(E), president judges may petition the Supreme Court to combine with other judicial districts and form "regional administrative units." Within each regional administrative unit, judges from one judicial district may be temporarily assigned to another judicial district within the unit without first obtaining a judicial assignment order from the Supreme Court. At present, only about half of Pennsylvania's 60 judicial districts are included within a Rule 701 regional administrative unit. Rule 1953 authorizes the creation of "Emergency Regional Administrative Units" covering all of Pennsylvania's 60 judicial districts. Through this Rule, in the event of an emergency judges and magisterial district judges from one judicial district within an emergency regional administrative unit may be assigned to another judicial district within the unit without first obtaining a Supreme Court order authorizing the temporary assignment. The Rule directs the Court Administrator of Pennsylvania to recommend to the Supreme Court the number and designation of emergency regional administrative units within 60 days of the adoption of this new Rule.

Rule 1954. Judicial Security.

(A) The president judge of each judicial district shall establish a local standing court security committee. The duties of the local standing court security committee shall be to:

(1) make recommendations to the president judge on protocols, policies and procedures necessary to protect the public, court personnel and court facilities in the event of an emergency;

(2) communicate the approved protocols, policies and procedures identified in Rule of Judicial Administration No. 1954(A)(1) to all court employees;

(3) review and assess all security incident reports specified in Rule of Judicial Administration No. 1954(B) and recommend to the president judge appropriate actions; and

(4) develop and recommend to the president judge training programs for court employees on safety and security awareness.

Official Note: When forming local standing court security committees, president judges should consider a variety of court and county employees as well as public

officials whose positions, experience and authority would benefit court security decisions. While not an exhaustive list, the president judge may consider: a member of the county executive branch, the district court administrator, a magisterial district judge, an individual responsible for county and court records, an individual responsible for courthouse security, a courthouse facility or risk manager and a member of county or local law enforcement.

(B) The president judge shall ensure that all reporting requirements of the Pennsylvania Judicial Incident Reporting System ("PAJIRS") are completed by the district court administrator or his or her designee no later than the close of business on the day that any reportable action occurs.

(C) The president judge shall ensure the completion of court facility security assessments as identified in the Unified Judicial System Court Safety and Security Manual and as prescribed by the Court Administrator.

(D) The president judge shall establish court security protocols, policies and procedures to be implemented in the event of an emergency, including, but not limited to: fire, natural disaster, "white powder" or other human-made emergency or disaster, and escaped prisoner and hostage situations. The president judge shall ensure that all employees receive training on how and when to implement such protocols, policies and procedures. All policies and procedures identified in this Rule shall be reviewed and updated annually.

Comment

Rule 1954 addresses court security and formalizes the creation of local standing court security committees. These committees, which have existed in every judicial district since at least 2005, are appointed by the president judges. They make recommendations to the president judge on protocols, policies and procedures which should be implemented to protect the public, court personnel and court facilities in the event of an emergency, and the president judge must establish such security protocols, policies and procedures for the judicial district. In addition, each local standing court security committee is charged with reviewing court security incident reports collected through PAJIRS, which was implemented in 2005 for magisterial district courts and 2007 for common pleas courts, and making appropriate recommendations to the president judge based on those reports. Finally, Rule 1954 directs the president judges of Pennsylvania's judicial districts to complete and annually update court facility security assessments.

It is hoped that a significant natural or man-made emergency never impacts Pennsylvania. However, through the framework provided in Rules 1950—1954, should an emergency occur, Pennsylvania Courts will be prepared to provide at least minimum services, including all essential court functions, both during and after the emergency, to better protect and serve Pennsylvania's citizens.

[Pa.B. Doc. No. 10-50. Filed for public inspection January 8, 2010, 9:00 a.m.]

Title 237—JUVENILE RULES

PART I. RULES

[237 PA. CODE CHS. 1, 2, 3, 4, 5, 11 AND 13]

In Re: Order Amending Rules 120, 160, 166, 167, 172, 220, 232, 300, 302, 330, 345, 362, 408, 409, 515, 1120, 1160, 1166, 1167, 1300, 1302 and 1345 of the Rules of Juvenile Court Procedure; No. 488; Supreme Court Rules

Order

Per Curiam:

And Now, this 24th day of December, 2009, upon the recommendation of the Juvenile Court Procedural Rules Committee; the proposal having been published for public comment before adoption at 38 Pa.B. 6598 (December 6, 2008), in the *Atlantic Reporter* (Second Series Advance Sheets, Vol. 958, No. 3, December 5, 2008), and on the Supreme Court's web page, and an *Explanatory Report* to be published with this *Order*:

It Is Ordered pursuant to Article V, Section 10 of the Constitution of Pennsylvania that the modifications to Rules 120, 160, 166, 167, 172, 220, 232, 300, 302, 330, 345, 362, 408, 409, 515, 1120, 1160, 1166, 1167, 1300, 1302, and 1345 of the Pennsylvania Rules of Juvenile Court Procedure are approved as follows.

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

JOHN A. VASKOV,
Deputy Prothonotary

Annex A

TITLE 237. JUVENILE RULES

PART. RULES

Subpart A. DELINQUENCY MATTERS

CHAPTER 1. GENERAL PROVISIONS

PART A. BUSINESS OF COURTS

Rule 120. Definitions.

ADULT is any person, other than a juvenile, eighteen years old or older.

AFFIANT is any responsible person, capable of taking an oath, who signs, swears to, affirms, or when permitted by these rules, verifies a written allegation and appreciates the nature and quality of that person's act.

CLERK OF COURTS is that official in each judicial district who has the responsibility and function under state law [**and**] or local practice to maintain the official [**juvenile court file**] **court record** and docket, without regard to that person's official title.

COURT is the Court of Common Pleas, a court of record, which is assigned to hear juvenile delinquency matters. Court shall include masters when they are permitted to hear cases under these rules and magisterial district judges when issuing an arrest warrant pursuant to Rule 210. Juvenile Court shall have the same meaning as Court.

DETENTION FACILITY is any facility, privately or publicly owned and operated, designated by the court and approved by the Department of Public Welfare to detain a juvenile temporarily. The term detention facility, when used in these rules, shall include shelter-care.

DISPOSITION is a final determination made by the court after an adjudication of delinquency or any determination that ceases juvenile court action on a case.

GUARDIAN is any parent, custodian, or other person who has legal custody of a juvenile, or person designated by the court to be a temporary guardian for purposes of a proceeding.

INTAKE STAFF is any responsible person taking custody of the juvenile on behalf of the court, detention facility, or medical facility.

ISSUING AUTHORITY is any public official having the power and authority of a magistrate, a Philadelphia bail commissioner, or a Magisterial District Judge.

JUVENILE is a person who has attained ten years of age and is not yet twenty-one years of age who is alleged to have committed a delinquent act before reaching eighteen years of age.

LAW ENFORCEMENT OFFICER is any person who is by law given the power to enforce the law when acting within the scope of that person's employment.

MASTER is an attorney with delegated authority to hear and make recommendations for juvenile delinquency matters. Master has the same meaning as hearing officer.

MEDICAL FACILITY is any hospital, urgent care facility, psychiatric or psychological ward, drug and alcohol detoxification or rehabilitation program, or any other similar facility designed to treat a juvenile medically or psychologically.

MINOR is any person, other than a juvenile, under the age of eighteen.

OFFICIAL COURT RECORD is the juvenile court file maintained by the clerk of courts which contains all court orders, court notices, docket entries, filed documents, evidence admitted into the record, and other court designated documents in each juvenile case.

ORDINANCE is a legislative enactment of a political subdivision.

PARTIES are the juvenile and the Commonwealth.

PENAL LAWS include all statutes and embodiments of the common law, which establish, create, or define crimes or offenses, including any ordinances that may provide for placement in a juvenile facility upon a finding of delinquency or upon failure to pay a fine or penalty.

PETITION is a formal document by which an attorney for the Commonwealth or the juvenile probation officer alleges a juvenile to be delinquent.

PETITIONER is an attorney for the Commonwealth or a juvenile probation officer, who signs, swears to, affirms, or verifies and files a petition.

PLACEMENT FACILITY is any facility, privately or publicly owned and operated, that identifies itself either by charter, articles of incorporation, or program description, to receive delinquent juveniles as a case disposition. Placement facilities include, but are not limited to, residential facilities, group homes, after-school programs, and day programs, whether secure or non-secure.

POLICE OFFICER is any person, who is by law given the power to arrest when acting within the scope of the person's employment.

POLITICAL SUBDIVISION shall mean county, city, township, borough, or incorporated town or village having legislative authority.

PROCEEDING is any stage in the juvenile delinquency process occurring once a written allegation has been submitted.

RECORDING is the means to provide a verbatim account of a proceeding through the use of a court stenographer, audio recording, audio-visual recording, or other appropriate means.

VERIFICATION is a written statement made by a person that the information provided is true and correct to that person's personal knowledge, information, or belief and that any false statements are subject to the penalties of the Crimes Code, 18 Pa.C.S. § 4904, relating to unsworn falsification to authorities.

WRITTEN ALLEGATION is the document that is completed by a law enforcement officer or other person that is necessary to allege a juvenile has committed an act of delinquency.

Comment

“Clerk of courts” is the person given the power under state law or local practice to maintain the official court record. See Rule 166 for additional responsibilities of the clerk of courts.

Under the term “court,” to determine if masters are permitted to hear cases, *see* Rule 187. [See]*See* Rule 210 for the power of magisterial district judges to issue arrest warrants.

The term “disposition” includes all final determinations made by the court. A disposition includes a response to an adjudication of delinquency, such as sending the juvenile to a placement facility or placing the juvenile on probation. It also includes other types of final determinations made by the court. Other final determinations include a finding that the juvenile did not commit a delinquent act pursuant to Rule 408(B), a finding that the juvenile is not in need of treatment, rehabilitation, or supervision pursuant to Rule 409(A)(1), dismissing the case “with prejudice” prior to an adjudicatory hearing, or any other final action by the court that closes or terminates the case.

The “official court record” is to contain all court orders, court notices, docket entries, filed documents, evidence admitted into the record, and other court designated documents in each juvenile case. The court may also designate any document to be a part of the record. It does not include items contained in juvenile probation's reports and files unless they are made a part of the official record by being filed with the clerk of courts.

Neither the definition of “law enforcement officer” nor the definition of “police officer” gives the power of arrest to any person who is not otherwise given that power by law.

A “petition” and a “written allegation” are two separate documents and serve two distinct functions. A “written allegation” is the document that initiates juvenile delinquency proceedings. Usually, the “written allegation” will be filed by a law enforcement officer and will allege that the juvenile has committed a delinquent act that comes within the jurisdiction of the juvenile court. This document may have been formerly known as a “probable cause affidavit,” “complaint,” “police paper,” “charge form,” “allegation of delinquency,” or the like. Once this document is submitted, a preliminary determination of the juvenile court's jurisdiction is to be made. Informal adjustment and other diversionary programs may be pursued. If the attorney for the Commonwealth or the juvenile probation

officer determines that formal juvenile court action is necessary, a petition is then filed.

For definition of “delinquent act,” see 42 Pa.C.S. § 6302.

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

Committee Explanatory Reports:

Final Report explaining the amendments to Rule 120 published with the Court’s Order at 36 Pa.B. **186**, 187 (January 14, 2006).

Final Report explaining the amendments to Rule 120 published with the Court’s Order at 37 Pa.B. **1483**, 1485 (April 7, 2007).

Final Report explaining the amendments to Rule 120 published with the Court’s Order at 38 Pa.B. 1142, **1145** (March 8, 2008).

Final Report explaining the amendment to Rule 120 published with the Court’s Order at 39 Pa.B. 4743, **4748** (August 8, 2009).

Final Report explaining the amendments to Rule 120 published with the Court’s Order at 40 Pa.B. 222, 236 (January 9, 2010).

PART C. RECORDS

PART C(1). ACCESS TO JUVENILE RECORDS

Rule 160. Inspection of [**Juvenile File/Records**] the **Official Court Record**.

A. *General Rule.* [**All files and records of the court in a proceeding, including the juvenile court file as provided in Rule 166, are**] **The official court record is only** open to inspection [**only**] by:

1) the judges, masters, juvenile probation officers, and staff of the court;

2) the attorney for the Commonwealth, the juvenile’s attorney, and the juvenile, but the persons in this category shall not be permitted to see reports revealing the names of confidential sources of information, except [**in**] at the discretion of the court;

3) a public or private agency or institution providing supervision or having custody of the juvenile under order of the court;

4) a court, [**and**] its probation officers, [**and**] other officials or **professional** staff, and the attorney for the defendant for use in preparing a pre-sentence report in a criminal case in which the defendant is convicted and the defendant previously was adjudicated delinquent;

5) a judge or issuing authority for use in determining bail, provided that such inspection is limited to orders of delinquency adjudications and dispositions, orders resulting from dispositional review hearings, and histories of bench warrants and escapes;

6) the Administrative Office of Pennsylvania Courts;

7) **the judges, juvenile probation officers, and staff of courts of other jurisdictions when necessary for the discharge of their official duties;**

8) officials of the Department of Corrections, [**or**] a state correctional institution, or other penal institution to which an individual, who was previously adjudicated delinquent in a proceeding under the Juvenile Act, has been committed, but the persons in this category shall not be permitted to see reports revealing the names of confidential sources of information contained in social reports, except [**in**] at the discretion of the court;

[**8**] 9) a parole board, court, or county probation official in considering an individual who was previously adjudicated delinquent in a proceeding under the Juvenile Act, but the persons in this category shall not be permitted to see reports revealing the names of confidential sources of information contained in social reports, except [**in**] at the discretion of the court;

[**9**] **the judges, juvenile probation officers, and staff of courts of other jurisdictions when necessary for the discharge of their official duties;]**

10) the State Sexual Offenders Assessment Board for use in completing assessments; and

11) with leave of court, any other person, agency, or institution having a legitimate interest in the proceedings or in the work of the unified judicial system.

B. *Public availability.* Upon request, a public document shall be created by the clerk of courts if the case is designated eligible for public inspection pursuant to Rule 330 or 515.

1) For cases deemed eligible pursuant to Rule 330, the public document shall contain only the following information:

- a) the juvenile’s name;
- b) the juvenile’s age;
- c) the juvenile’s address; and
- d) the offenses alleged in the juvenile’s petition.

2) For cases deemed eligible pursuant to Rule 515, the public document shall contain only the following information:

- a) the juvenile’s name;
- b) the juvenile’s age;
- c) the juvenile’s address;
- d) the offenses alleged in the juvenile’s petition;
- e) the adjudication on each allegation; and
- f) the disposition of the case.

Comment

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

See Rule 120 for definition of the “official court record.”

This rule is meant to include the contents of the [**juvenile court file**] **official court record** as described in Rule 166 [**and the contents of the juvenile probation records or reports**]. [**Juvenile probation records or reports, include, but are not limited to, social summaries, psychological and psychiatric evaluations, personal histories, school records and reports, mental health histories and reports, drug and alcohol evaluations, and placement facility records and reports.**]

When delinquency proceedings are commenced pursuant to Rule 200(4), the entire criminal court file is to be transferred with the case to juvenile court. This criminal case file is now the juvenile court file, **which is the official court record**, and the disclosure requirements of this rule apply.

Under paragraph (B), there is one document for each eligible case that is open for public inspection. The public document should be clearly marked for employees of the clerks of courts' office as the only document available for inspection by the general public. All other information contained in the [**juvenile court file**] **official court record** is not open for public inspection but only open to inspection to the persons enumerated in paragraph (A).

See Rule 330 for designation of public availability status in the juvenile petition. See Rule 515 for designation of public availability status in the dispositional order.

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

Committee Explanatory Reports:

Final Report explaining the provisions of Rule 160 published with the Court's Order at 35 Pa.B. 2214, **2229** (April 16, 2005).

Final Report explaining the revisions of Rule 160 published with the Court's Order at 36 Pa.B. 186, **187** (January 14, 2006).

Final Report explaining the amendments to Rule 160 published with the Court's Order at 37 Pa.B. 4866, **4867** (September 8, 2007).

Final Report explaining the amendments to Rule 160 published with the Court's Order at 38 Pa.B. 2360, **2361** (May 24, 2008).

Final Report explaining the amendments to Rule 160 published with the Court's Order at 40 Pa.B. 222, 236 (January 9, 2010).

PART C(2). MAINTAINING RECORDS

Rule 166. Maintaining Records in the Clerk of Courts.

A. *Generally.* The juvenile court file **is the official court record** and shall contain all [**original records, papers, and**] court orders, [**filed, copies of all**] court notices, [**and**] docket entries, **filed documents, evidence admitted into the record, and other court designated documents in each juvenile case.** These records shall be maintained by the clerk of courts and shall not be taken from the custody of the clerk of courts without order of the court.

B. *Docket entries.* The clerk of courts shall maintain a list of docket entries: a chronological list, in electronic or written form, of documents and entries in the [**juvenile court file**] **official court record** and of all proceedings in the case. The clerk of courts shall make docket entries at the time the information is made known to the clerk.

C. *Contents of docket entries.* The docket entries shall include, at a minimum, the following information:

1) the juvenile's name, last known address, date of birth, if known;

2) the names and addresses of all attorneys who have appeared or entered an appearance, the date of the entry of appearance(s), and the date of any withdrawal of appearance(s);

3) notations concerning all papers filed with the clerk, including all court notices, appearances, admissions, motions, orders, findings and adjudications, and dispositions, briefly showing the nature and title, if any, of each paper filed, writ issued, and motion made, and the substance of each order or disposition of the court and of the returns showing execution of process;

4) notations concerning motions made orally or orders issued orally in the courtroom when directed by the court;

5) a notation of every judicial proceeding, continuance, and disposition;

6) the location of exhibits made part of the record during the proceedings; [**and**]

7) a) the date of receipt in the clerk's office of the order or court notice;

b) the date appearing on the order or court notice; and

c) the date and manner of service of the order or court notice; and

8) all other information required by Rule 345.

Comment

This rule sets forth the mandatory contents of the list of docket entries and the [**juvenile court file**] **official court record**. This is not intended to be an exhaustive list of what is required to be recorded in the docket entries. The judicial districts may require additional information to be recorded in a case or in all cases.

The list of docket entries is a running record of all information related to any action in a juvenile case in the court of common pleas of the clerk's county, such as dates of filings, of orders, and of court proceedings, including hearings conducted by masters. Nothing in this rule is intended to preclude the use of automated or other electronic means for time stamping or making docket entries.

This rule applies to all proceedings in the court of common pleas, including hearings conducted by masters, at any stage of the delinquency case.

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

The practice in some counties of creating the list of docket entries only if an appeal is taken is inconsistent with this rule.

The requirement of paragraph (C)(2) that all attorneys and their addresses be recorded makes certain there is a record of all attorneys who have appeared for any juvenile in the case. The requirement also ensures that attorneys are served as required by Rules 167 and 345. See also Rule 345(C) concerning certificates of service. In those cases in which the attorney has authorized receiving service by facsimile transmission or electronic means, the docket entry required by paragraph (C)(2) is to include the facsimile number or electronic address. Paragraph (C)(4) recognizes that occasionally [**disposition**] **resolution** of oral motions presented in open court

should be reflected in the docket, such as motions and orders related to omnibus motions as provided in Rule 346.

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

Committee Explanatory Reports:

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

Final Report explaining the amendments to Rule 166 published with the Court's Order at 40 Pa.B. 222, 236 (January 9, 2010).

Rule 167. Filings and Service of Court Orders and Notices.

A. *Filings.*

1) All orders and court notices shall be transmitted promptly to the clerk of courts for filing. Upon receipt by the clerk of courts, the order or court notice shall be time stamped promptly with the date of receipt.

2) All orders and court notices shall be filed in the [juvenile court file] official court record.

B. *Service.*

1) A copy of any order or court notice shall be served promptly on each party's attorney, and the juvenile, if unrepresented.

2) The clerk of courts shall serve the order or court notice, unless the president judge has promulgated a local rule designating service to be by the court or court administrator.

3) *Methods of service.* Service shall be:

a) in writing by:

i) personal delivery to the party's attorney, and if unrepresented, the juvenile;

ii) mailing a copy to the party's attorney or leaving a copy for the attorney at the attorney's office;

iii) in those judicial districts that maintain in the courthouse assigned boxes for counsel to receive service, leaving a copy for the attorney in the attorney's box;

iv) sending a copy to an unrepresented juvenile by first class mail addressed to the juvenile's place of residence, detention, or placement;

v) sending a copy by facsimile transmission or other electronic means if the party's attorney, and if unrepresented, the juvenile has filed written request for this method of service or has included a facsimile number or an electronic address on a prior legal paper filed in the case; or

vi) delivery to the party's attorney, and if unrepresented, the juvenile by carrier service; or

b) orally in open court on the record.

C. *Unified Practice.* Any local rule that is inconsistent with the provisions of this rule is prohibited, including any local rule requiring a person to file or serve orders or court notices.

Comment

Court notices, as used in this rule, are communications that ordinarily are issued by a judge or the court

administrator concerning, for example, calendaring or scheduling, including proceedings requiring the juvenile's presence.

A facsimile number or electronic address set forth on the letterhead is not sufficient to authorize service by facsimile transmission or other electronic means under paragraph (B)(3)(a)(v). The authorization for service by facsimile transmission or other electronic means under this rule is valid only for the duration of the case. A separate authorization is to be filed in each case by the juvenile, if unrepresented, or by the attorney who wants to receive documents by this method of service.

Nothing in this rule is intended to preclude the use of automated or other electronic means for the transmission of the orders or court notices between the judge, court administrator, and clerk of courts, or for time stamping.

Official Note: Rule 167 adopted April 1, 2005, effective October 1, 2005. **Amended December 24, 2009, effective immediately.**

Committee Explanatory Reports:

Final Report explaining the provisions of Rule 167 published with the Court's Order at 35 Pa.B. 2214, 2231 (April 16, 2005).

Final Report explaining the amendments to Rule 167 published with the Court's Order at 40 Pa.B. 222, 236 (January 9, 2010).

PART C(3). EXPUNGING OR DESTROYING RECORDS

Rule 172. Order to Expunge or Destroy.

A. *Contents.* Any order to expunge or destroy the [juvenile court file] official court record, juvenile probation records, docket entries, law enforcement records, or fingerprints and photographs shall include the following information:

1) All items contained in Rule 170(B);

2) the printed name and signature of the judge issuing the order; and

3) the date of the court order.

B. *Service.* In addition to the service required by Rule 167, the clerk of courts shall serve certified copies of the order on the chief juvenile probation officer and any other person or agency as directed by the court.

Official Note: Rule 172 adopted April 1, 2005, effective October 1, 2005. **Amended December 24, 2009, effective immediately.**

Committee Explanatory Reports:

Final Report explaining the amendments to Rule 172 published with the Court's Order at 40 Pa.B. 222, 236 (January 9, 2010).

CHAPTER 2. COMMENCEMENT OF PROCEEDINGS, ARREST PROCEDURES, WRITTEN ALLEGATION, AND PRE-ADJUDICATORY DETENTION

PART B. ARREST PROCEDURES IN DELINQUENCY CASES

(b) Arrests Without Warrant

Rule 220. Procedure in Cases Commenced by Arrest Without Warrant.

A. The person arresting a juvenile shall promptly:

1) notify the juvenile's guardian of:

- a) the arrest of the juvenile;
- b) the reason for the arrest; and
- c) the juvenile's whereabouts; and
- 2) either:

a) release the juvenile to his or her guardian upon the guardian's promise to bring the juvenile before the court when requested by the court, unless detention of the juvenile is warranted; or

b) deliver the juvenile before the court or to a detention facility designated by the court; or

c) deliver the juvenile to a medical facility if the juvenile is believed to be suffering from a physical condition or illness that requires prompt treatment.

B. In all cases, the person arresting the juvenile promptly shall submit the written allegation, as required by Rule 231(A)(2).

Comment

The juvenile probation officer can accept juveniles for the court as described in paragraph (A)(2)(b).

The release of the juvenile does not eliminate the requirement of submission of a written allegation. For the general procedures governing written allegations, see Chapter two, Part (C).

See 42 Pa.C.S. § 6326.

See 42 Pa.C.S. § 6308 for the taking of fingerprints and photographs by law enforcement officers. The arresting officer is to ensure that the fingerprints and photographs are forwarded to the central repository as required by the Pennsylvania State Police. 42 Pa.C.S. § 6309(c).

Official Note: Rule 220 adopted April 1, 2005, effective October 1, 2005. Amended December 24, 2009, effective immediately.

Committee Explanatory Reports:

Final Report explaining the provisions of Chapter two, Part B published with the Court's Order at 35 Pa.B. 2214, 2235 (April 16, 2005).

Final Report explaining the amendments to Rule 220 published with the Court's Order at 40 Pa.B. 222, 236 (January 9, 2010).

PART C. WRITTEN ALLEGATION PROCEDURES

Rule 232. Contents of Written Allegation.

Every written allegation shall contain:

- 1) the name of the person making the allegations;
- 2) the name, date of birth, and address, if known, of the juvenile, or if unknown, a description of the juvenile;
- 3) a statement that:
 - a) it is in the best interest of the juvenile and the public that the proceedings be brought; and
 - b) the juvenile is in need of treatment, supervision, or rehabilitation;
- 4) the date when the offense is alleged to have been committed; provided, however:
 - a) if the specific date is unknown, or if the offense is a continuing one, it shall be sufficient to state that it was committed on or about any date within the period of limitations; and

b) if the date or day of the week is an essential element of the offense alleged, such date or day shall be specifically set forth;

5) the place where the offense is alleged to have been committed;

6) a) a summary of the facts sufficient to advise the juvenile of the nature of the offense alleged; and

b) the official or customary citation of the statute and section, or other provision of law which the juvenile is alleged to have violated, but an error in such citation shall not affect the validity or sufficiency of the written allegation;

7) the name and age of any conspirators, if known;

8) a statement that the acts were against the peace and dignity of the Commonwealth of Pennsylvania or in violation of an ordinance of a political subdivision;

9) **a notation indicating whether the juvenile has or has not been fingerprinted and photographed;**

10) a notation if criminal laboratory services are requested in the case;

[10] 11) a verification by the person making the allegation that the facts set forth in the written allegation are true and correct to the person's personal knowledge, information, or belief, and that any false statement made is subject to the penalties of the Crimes Code, 18 Pa.C.S. § 4904, relating to unsworn falsification to authorities;

[11] 12) the signature of the person making the allegation and the date of execution of the written allegation; and

[12] 13) the name and address of the juvenile's guardian, or if unknown, the name and address of the nearest adult relative.

Comment

This rule sets forth the required contents of all written allegations whether the person making the allegation is a law enforcement officer, a police officer, or a private citizen. See [<http://www.courts.state.pa.us>] <http://www.pacourts.us/Forms/Default.htm> for a copy of the written allegation form that is to be submitted.

See 42 Pa.C.S. § 6308 for the taking of fingerprints and photographs pursuant to paragraph (9).

Official Note: Rule 232 adopted April 1, 2005, effective October 1, 2005. Amended December 3, 2007, effective immediately. Amended January 23, 2009, effective March 1, 2009. Amended December 24, 2009, effective immediately.

Committee Explanatory Reports:

Final Report explaining the provisions of Rule 232 published with the Court's Order at 35 Pa.B. 2214, (April 16, 2005).

Final Report explaining the amendments to Rule 232 published with the Court's Order at 37 Pa.B. 6743 (December 22, 2007).

Final Report explaining the amendments to Rule 232 published with the Court's Order at 39 Pa.B. 676, 679 (February 7, 2009).

Final Report explaining the amendments to Rule 232 published with the Court's Order at 40 Pa.B. 222, 236 (January 9, 2010).

CHAPTER 3. PRE-ADJUDICATORY PROCEDURES
PART A. VENUE

Rule 300. Venue.

A. *Generally.* A delinquency proceeding shall be commenced in:

- 1) the county in which the delinquent act was allegedly committed; or
- 2) the juvenile's county of residence.

B. *Change of venue.* The juvenile may file a motion for change of venue if there is substantial prejudice to the juvenile. The court shall decide the motion.

C. *Transmission of all records. If there is a change of venue pursuant to paragraph (B):*

1) the transferring court shall transfer certified copies of all documents, reports, and summaries in the juvenile's official court record to the receiving court; and

2) The juvenile probation office of the transferring court shall transfer all its records to the juvenile probation office where venue has been transferred.

Official Note: Rule 300 adopted April 1, 2005, effective October 1, 2005. Amended December 24, 2009, effective immediately.

Committee Explanatory Reports:

Final Report explaining the provisions of Rule 300 published with the Court's Order at 35 Pa.B. 2214, 2239 (April 16, 2005).

Final Report explaining the amendments to Rule 300 published with the Court's Order at 40 Pa.B. 222, 236 (January 9, 2010).

Rule 302. Inter-County Transfer.

A. *Adjudication of Delinquency.* When the court proceeds to an adjudicatory hearing for non-resident juveniles, it shall hear evidence on the petition pursuant to Rule 406 or accept an admission pursuant to Rule 407 and shall rule on the offenses in accordance with Rule 408. The court may transfer the case to the juvenile's county of residence for a hearing to determine if the juvenile is in need of treatment, rehabilitation, or supervision pursuant to Rule 409 and if the court finds the juvenile to be in need of treatment, rehabilitation, or supervision, the receiving court shall proceed under Chapter Five.

B. *Courtesy Supervision.*

1) The court may transfer supervision of the juvenile to the juvenile's county of residence after:

- a) a consent decree is entered; or
- b) a dispositional order is entered; and

2) The county providing courtesy supervision may, with cause, withdraw supervision at any time and return the matter for further action to the county which entered the dispositional order.

C. *Transmission of [juvenile court file] all records.* If the case is transferred [under] pursuant to paragraph (A) or (B) [,]:

1) the transferring court shall [order] transfer [of] certified copies of all documents, reports, and summaries in the juvenile's [court file] official court record to the receiving court;

2) the juvenile probation office of the transferring court shall transfer all its records to the juvenile probation office where jurisdiction has been transferred.

Comment

The purpose of allowing transfer of disposition and supervision of the juvenile to the juvenile's county of residence is to allow probation to supervise the juvenile closely. Supervision is difficult if the juvenile lives in another county.

Under paragraph (B), this rule also may apply if the juvenile moves to a different county in this Commonwealth at some stage in the proceedings.

When the case is being transferred under paragraph (A), the transferring court should enter a finding of the amount of restitution owed and to whom it should be paid, if ordered. A restitution order should be included in the dispositional order, if applicable, under paragraph (B).

Official Note: Rule 302 adopted April 1, 2005, effective October 1, 2005. Amended December 24, 2009, effective immediately.

Committee Explanatory Reports:

Final Report explaining the amendments to Rule 302 published with the Court's Order at 40 Pa.B. 222, 236 (January 9, 2010).

PART C. PETITION

Rule 330. Petition: Filing, Contents, Function.

A. *Certification.* The District Attorney of any county may require that an attorney for the Commonwealth shall file all petitions. If the District Attorney elects to require an attorney for the Commonwealth to file the petition, the District Attorney shall file a certification with the court of common pleas. The certification shall:

- 1) state that an attorney for the Commonwealth shall file petitions; and
- 2) specify any limitations on the filing or classes of petitions.

B. *Filings.* In every delinquency proceeding, the attorney for the Commonwealth or the juvenile probation officer shall file a petition with the clerk of courts if it has been determined that informal adjustment or another diversionary program is inappropriate.

C. *Petition contents.* Every petition shall set forth plainly:

- 1) the name of the petitioner;
- 2) the name, date of birth, and address, if known, of the juvenile, or if unknown, a description of the juvenile;
- 3) a statement that:
 - a) it is in the best interest of the juvenile and the public that the proceedings be brought; and
 - b) the juvenile is in need of treatment, supervision, or rehabilitation;
- 4) the date when the offense is alleged to have been committed; provided, however:
 - a) if the specific date is unknown, or if the offense is a continuing one, it shall be sufficient to state that it was committed on or about any date within the period of limitations; and
 - b) if the date or day of the week is an essential element of the offense alleged, such date or day shall be specifically set forth;

5) the place where the offense is alleged to have been committed;

6) a) i) a summary of the facts sufficient to advise the juvenile of the nature of the offense alleged; and

ii) the official or customary citation of the statute and section, or other provision of law which the juvenile is alleged to have violated, but an error in such citation shall not affect the validity or sufficiency of the written allegation; or

b) a certification that the juvenile has not complied with the sentence imposed for a conviction of a summary offense.

7) the name and age of any conspirators, if known;

8) a statement that the acts were against the peace and dignity of the Commonwealth of Pennsylvania or in violation of an ordinance of a political subdivision;

9) a notation indicating whether the juvenile has or has not been fingerprinted and photographed;

10) a notation if criminal laboratory services are requested in the case;

[10] 11) a verification by the petitioner that the facts set forth in the petition are true and correct to the petitioner's personal knowledge, information, or belief, and that any false statements are subject to the penalties of the Crimes Code, 18 Pa.C.S. § 4904, relating to unsworn falsification to authorities;

[11] 12) the signature of the petitioner and the date of the execution of the petition;

[12] 13) the whereabouts of the juvenile and if taken into custody, the date and time thereof;

[13] 14) the name and address of the juvenile's guardian, or if unknown, the name and address of the nearest adult relative; and

[14] 15) an averment as to whether the case is eligible pursuant to 42 Pa.C.S. § 6307 (b)(1)(ii) for limited public information.

Comment

Under paragraph (A), the District Attorney may file a certification with the court of common pleas stating that only an attorney for the Commonwealth may file a petition. If a certification has not been filed, then an attorney for the Commonwealth or a juvenile probation officer may file a petition.

A private citizen has the right to file a written allegation, not a petition. *See* Rule 800. The written allegation commences the proceedings in the juvenile system. *See* Rule 200. The case should progress in the same manner as any other case in the juvenile system. If the written allegation is disapproved, the private citizen may file a motion challenging the disapproval with the court of common pleas. *See* Comment to Rule 233.

Informal adjustment or other diversionary programs should be considered before a petition is filed. Once a petition is filed, informal adjustment is not permitted. *See Comment to Rule 312 and Commonwealth v. J.H.B.*, 760 A.2d 27 (Pa. Super. Ct. 2000).

Petitions should be filed without unreasonable delay. *See Commonwealth v. Dallenbach*, 729 A.2d 1218 (Pa. Super. Ct. 1999).

***See* 42 Pa.C.S. § 6308 for the taking of fingerprints and photographs pursuant to paragraph (C)(9).**

The contents of a petition are the same as a written allegation except for the additional requirements in paragraphs (C) (6)(b), **[(12), and (14)] (13), and (15)**.

Pursuant to paragraph **[14] 15)**, the petitioner is to designate whether the allegations in the juvenile's petition make the case eligible for limited public information. *See* 42 Pa.C.S. § 6307(b)(2). When the case is designated, the clerk of courts is to mark the file clearly. For information that is available to the public in those eligible cases, see Rule 160.

Official Note: Rule 330 adopted April 1, 2005, effective October 1, 2005. Amended August 20, 2007, effective December 1, 2007. Amended January 23, 2009, effective March 1, 2009. **Amended December 24, 2009, effective immediately.**

Committee Explanatory Reports:

Final Report explaining the provisions of Rule 330 published with the Court's Order at 35 Pa.B. 2214 (April 16, 2005).

Final Report explaining the amendments to Rule 330 published with the Court's Order at 37 Pa.B. 4866, **4868** (September 8, 2007).

Final Report explaining the amendments to Rule 330 published with the Court's Order at 39 Pa.B. 676, **679** (February 7, 2009).

Final Report explaining the amendments to Rule 330 published with the Court's Order at 40 Pa.B. 222, 236 (January 9, 2010).

PART D(1). MOTION PROCEDURES

Rule 345. Filing and Service.

A. Filings.

1) *Generally.* Except as otherwise provided in these rules, all written motions, and any notice or document for which filing is required, shall be filed with the clerk of courts.

2) *Clerk of courts' duties.* Except as provided in paragraph (A)(3), the clerk of courts shall docket a written motion, notice, or document when it is received and record the time of filing in the docket. The clerk of courts promptly shall transmit a copy of these papers to such person as may be designated by the court.

3) *Filings by represented juveniles.* In any case in which a juvenile is represented by an attorney, if the juvenile submits for filing a written motion, notice, or document that has not been signed by the juvenile's attorney, the clerk of courts shall not file the motion, notice, or document in the **[juvenile court file] official court record** or make a docket entry, but shall forward it promptly to the juvenile's attorney.

4) *Method of filing.* Filing may be accomplished by:

a) personal delivery to the clerk of courts; or

b) mail addressed to the clerk of courts, provided, however, that filing by mail shall be timely only when actually received by the clerk within the time fixed for filing.

B. Service.

1) *Generally.* The party filing the document shall serve the other party concurrently with the filing.

2) *Method of service to parties.* Service on the parties shall be by:

a) personal delivery of a copy to a party's attorney, or, if unrepresented, the party; or

b) mailing a copy to a party's attorney or leaving a copy for the attorney at the attorney's office; or

c) in those judicial districts that maintain in the courthouse assigned boxes for counsel to receive service, leaving a copy for the attorney in the attorney's box; or

d) sending a copy to an unrepresented juvenile by first class mail addressed to the juvenile's place of residence, detention, or placement.

C. *Proof of service.* All documents that are filed and served pursuant to this rule shall include a certificate of service.

Comment

See Rule 166 for maintaining records in the clerk of courts.

Under paragraph (A)(2), the court is to designate a court official to process motions and other matters for appropriate scheduling and resolution.

Under paragraph (B), the party filing a document is required to serve the other party.

This rule does not affect court orders, which are to be served upon each party's attorney and the juvenile, if unrepresented, by the clerk of courts as provided in Rule 167.

For service of petitions, *see* Rule 331.

Official Note: Rule 345 adopted April 1, 2005, effective October 1, 2005. Amended July 28, 2009, effective immediately. **Amended December 24, 2009, effective immediately.**

Committee Explanatory Reports:

Final Report explaining the amendment to Rule 345 published with the Court's Order at 39 Pa.B. 4743, 4748 (August 8, 2009).

Final Report explaining the amendments to Rule 345 published with the Court's Order at 40 Pa.B. 222, 236 (January 9, 2010).

PART D(2). ADJUDICATORY SUMMONS AND NOTICE PROCEDURES

Rule 362. Requirements of the Summons.

The summons shall:

- 1) be in writing;
- 2) set forth the date, time, and place of the adjudicatory hearing;
- 3) instruct the juvenile about the juvenile's right to counsel, and if the juvenile is without financial resources or otherwise unable to employ counsel, the right to assigned counsel;
- 4) give a warning stating that the failure to appear for the hearing may result in arrest; [and]
- 5) include a copy of the juvenile petition; and
- 6) include an order directing the juvenile to submit to fingerprinting and photographing by, or arranged by, the law enforcement agency that submitted the written allegation in all cases in which the juvenile has not previously been fingerprinted or photographed.

Comment

Section 6335(a) of the Juvenile Act requires a copy of the petition to accompany the summons. 42 Pa.C.S. § 6335(a).

See 42 Pa.C.S. § 6308 for the taking of fingerprints and photographs.

Official Note: Rule 362 adopted April 1, 2005, effective October 1, 2005. **Amended December 24, 2009, effective immediately.**

Committee Explanatory Reports:

Final Report explaining the amendments to Rule 362 published with the Court's Order at 40 Pa.B. 222, 236 (January 9, 2010).

CHAPTER 4. ADJUDICATORY HEARING

Rule 408. Ruling on Offenses.

A. **Entered finding.** Within seven days of hearing the evidence on the petition or accepting an admission under Rule 407, the court shall enter a finding by specifying which, if any, offenses, including grading and counts, alleged in the petition were committed by the juvenile.

B. *Did not commit acts.*

1) If the court finds the juvenile did not commit **all of** the alleged delinquent acts, the court shall dismiss the [**allegations**] **petition** and release the juvenile, if detained, unless there are other grounds for the juvenile's detention.

2) **The court shall move to expunge the records related to the dismissed petition pursuant to 18 Pa.C.S. § 9123(a)(1) and Rule 172.**

3) **Absent cause shown, the court shall expunge the records and order the destruction of any fingerprints or photographs.**

C. **Committed act.** If the court finds that the juvenile committed any delinquent act, the court shall proceed as provided in Rule 409.

Comment

Under paragraph (A), for any offense the court finds that the juvenile committed, the court is to specify the grading and count(s). *See* 42 Pa.C.S. § 6341(b). It is noted that some offenses have no specific grading, i.e., ungraded felony or misdemeanor of the Controlled Substance, Drug, Device and Cosmetic Act, 35 P.S. § 780-101 *et seq.*, or the ungraded delinquent act of failure to comply with a sentence for a summary offense, 42 Pa.C.S. § 6302 (definition of "delinquent act").

[**Under paragraph (B), if all the allegations are dismissed, the court is to order the destruction of fingerprints and photographs. See 42 Pa.C.S. § 6341(a). Pursuant to paragraph (B), if the court finds that the juvenile did not commit all of the alleged delinquent acts, the court, upon its own motion, is to expunge the records pursuant to 18 Pa.C.S. § 9123(a)(1). Absent cause shown, the court is to expunge the records pursuant to Rule 172. In its order, the court is to specify the case reference number or other identifying number so the order only applies to the specified case. See Comment to Rule 170 for further definition of a reference number.**

Official Note: Rule 408 adopted April 1, 2005, effective October 1, 2005. **Amended December 24, 2009, effective immediately.**

Committee Explanatory Reports:

Final Report explaining the provisions of Rule 408 published with the Court's Order at 35 Pa.B. 2214, 2253 (April 16, 2005).

Final Report explaining the amendments to Rule 408 published with the Court's Order at 40 Pa.B. 222, 236 (January 9, 2010).

Rule 409. Adjudication of Delinquency.

A. *Adjudicating the juvenile delinquent.* Once the court has ruled on the offenses as provided in Rule 408, the court shall conduct a hearing to determine if the juvenile is in need of treatment, supervision, or rehabilitation.

1) **Not in need.** If the court determines that the juvenile is not in need of treatment, supervision, or rehabilitation, **the court shall enter an order providing that:**

a) jurisdiction shall be terminated and the juvenile shall be released, if detained, unless there are other reasons for the juvenile's detention; **and**

b) **any fingerprints and photographs taken shall be destroyed.**

2) **In need.**

a) If the court determines that the juvenile is in need of treatment, supervision, or rehabilitation, the court shall enter an order adjudicating the juvenile delinquent and proceed in determining a proper disposition under Rule 512.

b) **The court also shall order the law enforcement agency that submitted the written allegation:**

i) **to take, or cause to be taken, the fingerprints and photographs of the juvenile if not previously taken pursuant to this case, and**

ii) **to ensure that these records, including the case reference number, are forwarded to the central repository maintained by the Pennsylvania State Police.**

B. *Timing.*

1) If the juvenile is in detention, the court shall make its finding within twenty days of the ruling on the offenses pursuant to Rule 408.

2) If the juvenile is not in detention, the court shall make its finding within sixty days of the ruling on the offenses pursuant to Rule 408.

C. *Extending Time by Agreement.* The time restrictions under paragraphs (B)(1) and (B)(2) may be extended if there is an agreement by both parties.

Comment

Under paragraph (A), absent evidence to the contrary, evidence of the commission of acts that constitute a felony is sufficient to sustain a finding that the juvenile is in need of treatment, supervision, or rehabilitation. *See* 42 Pa.C.S. § 6341(b).

This rule addresses adjudicating the juvenile delinquent or releasing the juvenile from the court's jurisdiction. This determination is different from finding the juvenile committed a delinquent act under Rule 408.

Pursuant to 42 Pa.C.S. § 6308(c)(3), all fingerprints and photographic records are to be destroyed upon order of the court if the juvenile is not adjudicated delinquent.

Pursuant to paragraph (A)(2)(b)(ii), a case reference number is to be included to help track this case. *See Comment* to Rule 170 for further description of a case reference number.

A report on the disposition is to be sent to the Juvenile Court Judges' Commission. *See* 42 Pa.C.S. § 6309(d).

For dispositional hearing procedures, *see* Chapter Five.

Official Note: Rule 409 adopted April 1, 2005, effective October 1, 2005. **Amended December 24, 2009, effective immediately.**

Committee Explanatory Reports:

Final Report explaining the provisions of Rule 409 published with the Court's Order at 35 Pa.B. 2214 (April 16, 2005).

Final Report explaining the amendments to Rule 409 published with the Court's Order at 40 Pa.B. 222, 236 (January 9, 2010).

CHAPTER 5. DISPOSITIONAL HEARING**PART B. DISPOSITIONAL HEARING AND AIDS****Rule 515. Dispositional Order.**

A. *Generally.* When the court enters a disposition after an adjudication of delinquency pursuant to Rule 409(A)(2), the court shall issue a written order, which provides balanced attention to the protection of the community, accountability for the offenses committed, and development of the juvenile's competencies to enable the juvenile to become a responsible and productive member of the community. The order shall include:

1) the terms and conditions of the disposition;

2) the name of any agency or institution that [is to] shall provide care, treatment, supervision, or rehabilitation of the juvenile;

3) a designation whether the case is eligible pursuant to 42 Pa.C.S. § 6307 (b)(1)(i) for limited public information;

4) **a directive that the juvenile shall submit to fingerprinting and photographing by, or arranged by, the law enforcement agency that submitted the written allegation in all cases in which the juvenile has not previously been fingerprinted or photographed;**

5) the date of the order; and

[5]6) the signature and printed name of the judge entering the order.

B. *Restitution.* If restitution is ordered in a case, the dispositional order shall include:

1) a specific amount of restitution to be paid by the juvenile;

2) to whom the restitution [is to] shall be paid; and

3) a payment schedule, if so determined by the court.

C. *Guardian participation.* The court shall include any obligation in its dispositional order imposed upon the guardian.

D. Disposition reporting. The court shall forward the case disposition to the Juvenile Court Judges' Commission, as required by the Commission.

Comment

Pursuant to paragraph (A)(3), the court is to determine if the case is eligible for limited public information under the requirements of 42 Pa.C.S. § 6307 (b)(1)(i). *See* 42 Pa.C.S. § 6307 (b)(2). When the case is designated, the clerk of courts is to mark the file clearly. For information that is available to the public in those eligible cases, *see* Rule 160.

See 23 Pa.C.S. § 5503 and 42 Pa.C.S. §§ **6308, 6309 and 6310**.

Dispositional orders should comport in substantial form and content to the Juvenile Court Judges' Commission model orders to receive funding under the federal Adoption and Safe Families Act (ASFA) of 1997 (P. L. 105-89). The model forms are also in compliance with Title IV-B and Title IV-E of the Social Security Act. For model orders, *see* <http://www.jcjc.state.pa.us> or <http://www.dpw.state.pa.us> or request a copy on diskette directly from the Juvenile Court Judges' Commission, Room 401, Finance Building, Harrisburg, PA 17120.

Official Note: Rule 515 adopted April 1, 2005, effective October 1, 2005. Amended August 20, 2007, effective December 1, 2007. Amended July 28, 2009, effective immediately. **Amended December 24, 2009, effective immediately.**

Committee Explanatory Reports:

Final Report explaining the provisions of Rule 515 published with the Court's Order at 35 Pa.B. 2214 (April 16, 2005).

Final Report explaining the amendments to Rule 515 published with the Court's Order at 37 Pa.B. 4866, **4868** (September 8, 2007).

Final Report explaining the amendment to Rule 515 published with the Court's Order at 39 Pa.B. **4743, 4748** (August 8, 2009).

Final Report explaining the amendments to Rule 515 published with the Court's Order at 40 Pa.B. 222, 236 (January 9, 2010).

Subpart B. DEPENDENCY MATTERS CHAPTER 11. GENERAL PROVISIONS

PART A. BUSINESS OF COURTS

Rule 1120. Definitions.

ADULT is any person, other than a child, eighteen years old or older.

AGGRAVATED CIRCUMSTANCES are those circumstances specifically defined pursuant to the Juvenile Act, 42 Pa.C.S. § 6302.

CHILD is a person who is under the age of eighteen who is the subject of the dependency petition, or who was adjudicated dependent before reaching the age of eighteen years and who, while engaged in a course of instruction or treatment, requests the court to retain jurisdiction until the course has been completed, but in no event shall remain in a course of instruction or treatment past the age of twenty-one years.

CLERK OF COURTS is that official in each judicial district who has the responsibility and function under state law [**and**] or local practice to maintain the official [**juvenile court file**] **court record** and docket, without regard to that person's official title.

COUNTY AGENCY is the county children and youth social service agency established pursuant to the County

Institution District Law, 62 Pa.C.S. § 2305 or established through the county commissioners in the judicial districts where the County Institution District Law was abolished, 16 P. S. §§ 2161, 2168, and supervised by the Department of Public Welfare pursuant to the Public Welfare Code, 62 Pa.C.S. § 901 *et seq.*

COURT is the Court of Common Pleas, a court of record, which is assigned to hear dependency matters. Court shall include masters when they are permitted to hear cases under these rules. Juvenile court shall have the same meaning as court.

FAMILY SERVICE PLAN is the document in which the county agency sets forth the service objectives for a family and services to be provided to a family by the county agency.

GUARDIAN is any parent, custodian, or other person who has legal custody of a child, or person designated by the court to be a temporary guardian for purposes of a proceeding.

JUDGE is a judge of the Court of Common Pleas.

LAW ENFORCEMENT OFFICER is any person who is by law given the power to enforce the law when acting within the scope of that person's employment.

MASTER is an attorney with delegated authority to hear and make recommendations for dependency matters. Master has the same meaning as hearing officer.

MEDICAL FACILITY is any hospital, urgent care facility, psychiatric or psychological ward, drug and alcohol detoxification or rehabilitation program, or any other similar facility designed to treat a child medically or psychologically.

MINOR is any person under the age of eighteen.

OFFICIAL COURT RECORD is the juvenile court file maintained by the clerk of courts which contains all court orders, court notices, docket entries, filed documents, evidence admitted into the record, and other court designated documents in each case.

PARTY is a person who is legally entitled to participate in the proceedings but nothing in these Rules confers standing upon a person.

PERMANENCY PLAN is a comprehensive plan that will result in a permanent home for the child.

PETITION is a formal document by which a child is alleged to be dependent.

PETITIONER is any person, who signs or verifies, and files a petition.

POLICE OFFICER is any person, who is by law given the power to arrest when acting within the scope of that person's employment.

PROCEEDING is any stage in the dependency process occurring once a shelter care application has been submitted or a petition has been filed.

PROTECTIVE CUSTODY is when a child is taken into custody for protection as an alleged dependent child pursuant to the Juvenile Act, 42 Pa.C.S. § 6301 *et seq.* or custody may be assumed pursuant to 23 Pa.C.S. § 6315.

RECORDING is the means to provide a verbatim account of a proceeding through the use of a court stenographer, audio recording, audio-visual recording, or other appropriate means.

SHELTER CARE FACILITY is a physically unrestricted facility that provides temporary care of a child and is approved by the Department of Public Welfare.

VERIFICATION is a written statement made by a person that the information provided is true and correct to that person's personal knowledge, information, or belief and that any false statements are subject to the penalties of the Crimes Code, 18 Pa.C.S. § 4904, relating to unsworn falsification to authorities.

Comment

The county agency is a party to the proceeding and should not function as the "Clerk of Courts."

The definition of "clerk of courts" should not necessarily be interpreted to mean the office of clerk of courts as set forth in 42 Pa.C.S. § 102, but instead refers to that official who maintains the official [**juvenile court files**] **court record** and docket regardless of the person's official title in each judicial district. It is to be determined locally which official is to maintain these records and the associated docket.

The county institution districts in counties of the fourth, fifth, sixth, seventh, and eighth classes were abolished pursuant to 16 P.S. § 2161. It is the county commissioners' duties in the fourth, fifth, sixth, seventh, and eighth classes to provide the children and youth social service agency with the necessary services for the agency to provide care for the child. See 16 P.S. § 2168.

Under the term "court," to determine if masters are permitted to hear cases, see Rule 1187.

For the family service plan, see 55 Pa. Code § 3130.61

The definition of "law enforcement officer" does not give the power of arrest to any person who is not otherwise given that power by law.

The "official court record" is to contain all court orders, court notices, docket entries, filed documents, evidence admitted into the record, and other court designated documents in each case. The court may also designate any document to be a part of the record. It does not include items contained in county agency's records unless they are made a part of the official record by being filed with the clerk of courts.

The term "petitioner" may include any person; however, if the person is not the county agency, an application to file a petition pursuant to Rule 1320 is to be made. If the court, after a hearing, grants the application, the applicant may file a petition.

Official Note: Rule 1120 adopted August 21, 2006, effective February 1, 2007. Amended March 19, 2009, effective June 1, 2009. **Amended December 24, 2009, effective immediately.**

Committee Explanatory Reports:

Final Report explaining the provisions of Rule 1120 published with the Court's Order at 36 Pa.B. **5571**, 5599 (September 2, 2006).

Final Report explaining the amendments to Rule 1120 published with the Court's Order at 39 Pa.B. 1614, **1619** (April 4, 2009).

Final Report explaining the amendments to Rule 1120 published with the Court's Order at 40 Pa.B. 222, 236 (January 9, 2010).

PART C. RECORDS

PART C(1). ACCESS TO JUVENILE COURT RECORDS

Rule 1160. Inspection of [**Juvenile Court File/Records**] the Official Court Record.

[**All files and records of the court in a proceeding are**] **The official court record is only** open to inspection [**only**] by:

1) The judges, officers, and professional staff of the court;

2) The parties to the proceeding and their counsel and representatives, but the persons in this category shall not be permitted to see reports revealing the names of confidential sources of information contained in social reports, except at the discretion of the court;

3) A public or private agency or institution providing supervision or having custody of the child under order of the court;

4) A court, [**and**] its probation [**and**] officers, other officials or professional staff, and the attorney for the defendant for use in preparing a presentence report in a criminal case in which the defendant is convicted and who prior thereto had been a party to a proceeding under the Juvenile Act, 42 Pa.C.S. § 6301 *et seq.*;

5) The Administrative Office of Pennsylvania Courts;

6) The judges, officers, and professional staff of courts of other jurisdictions when necessary for the discharge of their official duties;

7) Officials of the Department of Corrections, [**or**] a State Correctional Institution, or other penal institution to which an individual, who was previously adjudicated delinquent in a proceeding under the Juvenile Act, 42 Pa.C.S. § 6301 *et seq.*, has been committed, but the persons in this category shall not be permitted to see reports revealing the names of confidential sources of information contained in social reports, except at the discretion of the court;

8) A parole board, court, or county probation official in considering an individual's parole or in exercising supervision over any individual who was previously adjudicated delinquent in a proceeding under the Juvenile Act, 42 Pa.C.S. § 6301 *et seq.*, but the persons in this category shall not be permitted to see reports revealing the names of confidential sources of information contained in social reports, except at the discretion of the court.

9) The State Sexual Offenders Assessment Board for use in completing assessments; and

10) With leave of court, any other person or agency or institution having a legitimate interest in the proceedings or in the work of the unified judicial system.

Comment

See the Juvenile Act, 42 Pa.C.S. § 6307, for the statutory provisions on inspection of [**the juvenile court's file**] **all files and records of the court in a proceeding.**

Persons specified in 23 Pa.C.S. § 6340 as having access to reports may qualify as persons having a legitimate interest in the proceedings under paragraph (10). See 23 Pa.C.S. § 6340.

This rule is meant to include the contents of the [**juvenile court file**] **official court record** as described in Rule 1166, which does not include agency records.

Official Note: Rule 1160 adopted August 21, 2006, effective February 1, 2007. **Amended December 24, 2009, effective immediately.**

Committee Explanatory Reports:

Final Report explaining the provisions of Rule 1160 published with the Court's Order at 36 Pa.B. **5571**, 5599 (September 2, 2006).

Final Report explaining the amendments to Rule 1160 published with the Court's Order at 40 Pa.B. 222, 236 (January 9, 2010).

PART C(2). MAINTAINING RECORDS

Rule 1166. Maintaining Records in the Clerk of Courts.

A. *Generally.* The juvenile court file **is the official court record and** shall contain all original records, papers, and orders filed, copies of all court notices, and docket entries. These records shall be maintained by the clerk of courts and shall not be taken from the custody of the clerk of courts without order of the court.

B. *Docket entries.* The clerk of courts shall maintain a list of docket entries: a chronological list, in electronic or written form, of documents and entries in the [**juvenile court file**] **official court record** and of all proceedings in the case. The clerk of courts shall make docket entries at the time the information is made known to the clerk.

C. *Contents of docket entries.* The docket entries shall include, at a minimum, the following information:

- 1) the child's name, address, date of birth, if known;
- 2) the guardian's name, address, if known;
- 3) the names and addresses of all attorneys who have appeared or entered an appearance, the date of the entry of appearance(s), and the date of any withdrawal of appearance(s);
- 4) notations concerning all papers filed with the clerk, including all court notices, appearances, motions, orders, findings and adjudications, dispositions, permanency reviews, and adoptions, briefly showing the nature and title, if any, of each paper filed, writ issued, and motion made, and the substance of each order or disposition of the court and of the returns showing execution of process;
- 5) notations concerning motions made orally or orders issued orally in the courtroom when directed by the court;
- 6) a notation of every judicial proceeding, continuance, and disposition;
- 7) the location of exhibits made part of the record during the proceedings; and
- 8) a) the date of receipt in the clerk's office of the order or court notice;
 - b) the date appearing on the order or court notice; and
 - c) the date and manner of service of the order or court notice; and
- 9) all other information required by Rule 1345.

Comment

This rule sets forth the mandatory contents of the list of docket entries and the [**juvenile court file**] **official court record**. This is not intended to be an exhaustive

list of what is required to be recorded in the docket entries. The judicial districts may require additional information to be recorded in a case or in all cases.

The list of docket entries is a running record of all information related to any action in a dependency case in the court of common pleas of the clerk's county, such as dates of filings, of orders, and of court proceedings, including hearings conducted by masters. Nothing in this rule is intended to preclude the use of automated or other electronic means for time-stamping or making docket entries.

This rule applies to all proceedings in the court of common pleas, including hearings conducted by masters, at any stage of the dependency case.

This rule is not intended to include items contained in the county agency records or reports.

The practice in some counties of creating the list of docket entries only if an appeal is taken is inconsistent with this rule.

The requirement of paragraph (C)(3) that all attorneys and their addresses be recorded makes certain there is a record of all attorneys who have appeared for any party in the case. The requirement also ensures that attorneys are served as required by Rules 1167 and 1345. *See also* Rule 1345(C) concerning certificates of service.

In those cases in which the attorney has authorized receiving service by facsimile transmission or electronic means, the docket entry required by paragraph (C)(3) is to include the facsimile number or electronic address.

Paragraph (C)(5) recognizes that occasionally [**disposition**] **resolution** of oral motions presented in open court should be reflected in the docket, such as motions and orders.

Official Note: Rule 1166 adopted August 21, 2006, effective February 1, 2007. **Amended December 24, 2009, effective immediately.**

Committee Explanatory Reports:

Final Report explaining the provisions of Rule 1166 published with the Court's Order at 36 Pa.B. **5571**, 5599 (September 2, 2006).

Final Report explaining the amendments to Rule 1166 published with the Court's Order at 40 Pa.B. 222, 236 (January 9, 2010).

Rule 1167. Filings and Service of Court Orders and Notices.

A. Filings.

1) All orders and court notices shall be transmitted promptly to the clerk of courts for filing. Upon receipt by the clerk of courts, the order or court notice shall be time-stamped promptly with the date of receipt.

2) All orders and court notices shall be filed in the [**juvenile court file**] **official court record**.

B. Service.

1) A copy of any order or court notice shall be served promptly on each party's attorney, and the party, if unrepresented.

2) The clerk of courts shall serve the order or court notice, unless the president judge has promulgated a local rule designating service to be by the court or its designee.

3) *Methods of service.* Service shall be:

- a) in writing by:

i) personal delivery to the party's attorney, and if unrepresented, the party;

ii) mailing a copy to the party's attorney or leaving a copy for the attorney at the attorney's office;

iii) in those judicial districts that maintain in the courthouse assigned boxes for counsel to receive service, leaving a copy for the attorney in the attorney's box;

iv) sending a copy to an unrepresented party by first class mail addressed to the party's place of business, residence, or detention;

v) sending a copy by facsimile transmission or other electronic means if the party's attorney, and if unrepresented, the party has filed written request for this method of service or has included a facsimile number or an electronic address on a prior legal paper filed in the case;

vi) delivery to the party's attorney, and if unrepresented, the party by carrier service; or

b) orally in open court on the record.

C. *Unified Practice*. Any local rule that is inconsistent with the provisions of this rule is prohibited, including any local rule requiring a person to file or serve orders or court notices.

Comment

Court notices, as used in this rule, are communications that ordinarily are issued by a judge or the court administrator concerning, for example, calendaring or scheduling, including proceedings requiring the party's presence.

A facsimile number or electronic address set forth on the letterhead is not sufficient to authorize service by facsimile transmission or other electronic means under paragraph (B)(3)(a)(v). The authorization for service by facsimile transmission or other electronic means under this rule is valid only for the duration of the case. A separate authorization is to be filed in each case by the party, if unrepresented, or by the attorney who wants to receive documents by this method of service.

Nothing in this rule is intended to preclude the use of automated or other electronic means for the transmission of the orders or court notices between the judge, court administrator, and clerk of courts, or for time-stamping.

Official Note: Rule 1167 adopted August 21, 2006, effective February 1, 2007. **Amended December 24, 2009, effective immediately.**

Committee Explanatory Reports:

Final Report explaining the provisions of Rule 1167 published with the Court's Order at 36 Pa.B. 5571, 5599 (September 2, 2006).

Final Report explaining the amendments to Rule 1167 published with the Court's Order at 40 Pa.B. 222, 236 (January 9, 2010).

CHAPTER 13. PRE-ADJUDICATORY PROCEDURES

PART A. VENUE

Rule 1300. Venue.

A. *Generally*. A dependency proceeding shall be commenced in:

- 1) the county in which the child is present; or
- 2) the child's county of residence.

B. *Change of venue*. For the convenience of parties and witnesses, the court, upon its own motion or motion of any party, may transfer an action to the appropriate court of any county where the action could originally have been brought or could be brought at the time of filing the motion to change venue.

C. *Transmission of [juvenile court file] all records*. If there is a change of venue pursuant to paragraph (B)[,]:

1) the transferring court shall [forward] transfer certified copies of all documents, reports, and summaries in the child's [court file] official court record to the receiving court; and

2) The county agency of the transferring court shall transfer all its records to the county agency where venue has been transferred.

Comment

See 42 Pa.C.S. § 6321.

For procedures regarding motions and answers, see Rule 1344. In addition to the procedures for service of orders under Rule 1167, an order changing venue is to be served upon the new county agency and the receiving court so they may begin proceedings in the receiving county.

Official Note: Rule 1300 adopted August 21, 2006, effective February 1, 2007. **Amended December 24, 2009, effective immediately.**

Committee Explanatory Reports:

Final Report explaining the provisions of Rule 1300 published with the Court's Order at 36 Pa.B. 5571, 5599 (September 2, 2006).

Final Report explaining the amendments to Rule 1300 published with the Court's Order at 40 Pa.B. 222, 236 (January 9, 2010).

Rule 1302. Inter-County Transfer.

A. *Transfer*. A court may transfer a case to another county at any time.

B. *Transmission of [juvenile court file] official court record*. If the case is transferred [under] pursuant to paragraph (A)[,]:

1) the transferring court shall [transmit] transfer certified copies of all documents, reports, and summaries in the child's [court file] official court record to the receiving court; and

2) the county agency of the transferring court shall transfer all its records to the county agency where jurisdiction has been transferred.

Comment

See 42 Pa.C.S. § 6321.

Official Note: Rule 1302 adopted August 21, 2006, effective February 1, 2007. **Amended December 24, 2009, effective immediately.**

Committee Explanatory Reports:

Final Report explaining the provisions of Rule 1302 published with the Court's Order at 36 Pa.B. 5571, 5599 (September 2, 2006).

Final Report explaining the amendments to Rule 1302 published with the Court's Order at 40 Pa.B. 222, 236 (January 9, 2010).

PART D(1). MOTION PROCEDURES

Rule 1345. Filing and Service.A. *Filings.*

1) *Generally.* Except as otherwise provided in these rules, all written motions, and any notice or document for which filing is required, shall be filed with the clerk of courts.

2) *Clerk of courts' duties.* Except as provided in paragraph (A)(3), the clerk of courts shall docket a written motion, notice, or document when it is received and record the time of filing in the docket. The clerk of courts promptly shall transmit a copy of these papers to such person as may be designated by the court.

3) *Filings by represented parties.* In any case in which a party is represented by an attorney, if the party submits for filing a written motion, notice, or document that has not been signed by the party's attorney, the clerk of courts shall not file the motion, notice, or document in the child's [**court file**] **official court record** or make a docket entry, but shall forward it promptly to the party's attorney.

4) *Method of filing.* Filing may be accomplished by:

- a) personal delivery to the clerk of courts; or
- b) mail addressed to the clerk of courts, provided, however, that filing by mail shall be timely only when actually received by the clerk within the time fixed for filing.

B. *Service.*

1) *Generally.* The party filing the document shall serve the other party concurrently with the filing.

2) *Method of service to parties.* Service on the parties shall be by:

- a) personal delivery of a copy to a party's attorney, or, if unrepresented, the party; or
- b) mailing a copy to a party's attorney or leaving a copy for the attorney at the attorney's office; or
- c) in those judicial districts that maintain in the courthouse assigned boxes for counsel to receive service, leaving a copy for the attorney in the attorney's box; or
- d) sending a copy to an unrepresented party by first class mail addressed to the party's place of residence.

C. *Proof of service.* All documents that are filed and served pursuant to this rule shall include a certificate of service.

Comment

See Rule 1166 for maintaining records in the clerk of courts.

Under paragraph (A)(2), the court is to designate a court official to process motions and other matters for appropriate scheduling and [**disposition**] **resolution**.

Under paragraph (B)(1), the party filing a document is required to serve the other party.

This rule does not affect court orders, which are to be served upon each party's attorney and the guardian, if unrepresented, by the clerk of courts as provided in Rule 1167.

For service of petitions, see Rule 1331.

Official Note: Rule 1345 adopted August 21, 2006, effective February 1, 2007. **Amended December 24, 2009, effective immediately.**

Committee Explanatory Reports:

Final Report explaining the provisions of Rule 1345 published with the Court's Order at 36 Pa.B. 5571, 5599 (September 2, 2006).

Final Report explaining the amendments to Rule 1345 published with the Court's Order at 40 Pa.B. 222, 236 (January 9, 2010).

Introduction

The Supreme Court of Pennsylvania has adopted the proposed changes to Rules 120, 160, 166, 167, 172, 220, 232, 300, 302, 330, 345, 362, 408, 409, 515, 1120, 1160, 1166, 1167, 1300, 1302 and 1345 with this Recommendation. The changes are effective immediately.

**EXPLANATORY REPORT
DECEMBER 2009****Rules 120 and 1120—Definitions**

These rules provide a new definition for "official court record." This will alleviate any confusion between the official court record and those records kept by the juvenile probation office or the county agency. These definitions also provide clarification that the clerk of courts is the keeper of the official court record. These clarifications are important so that when an appeal is taken, the official court record is clearly defined.

The "official juvenile court file" in the definition of "clerk of courts" was relabeled "official court record" to correspond with its new definition.

Rules 160 and 1160—Inspection of Juvenile File/Record

The title of these rules was modified to reflect the new definition of "official court record."

In paragraph (A), the "official court record" was added to replace "all files and records of the court in a proceeding, including the juvenile court file as provided in Rule 166" in Rule 160 and "all files and records of the court in a proceeding" in Rule 1160 to correspond with the new definition.

In Rule 160, the term "professional" was added to paragraph (A)(4) to reflect the language of the Juvenile Act and paragraph (A)(9) was moved to paragraph (A)(7) to reflect the order of the Juvenile Act. See 42 Pa.C.S. § 6307.

The *Comments* were also modified to reflect that the official court record does not include the confidential files and records maintained by the juvenile probation office or the county agency.

Rules 166, 1166, 167, 1167 and 172—Maintaining Records in the Clerk of Courts, Filings and Service of Court Orders and Notices, and Order to Expunge or Destroy

These rules were modified to reflect the new definition of "official court record."

Rule 220—Procedures in Cases Commenced by Arrest without Warrant

The *Comment* was modified to include the Juvenile Act references for the taking of fingerprints and photographs and forwarding them to the Central Repository.

Rules 232 and 330—Contents of Written Allegation, and Petition: Filing, Contents, Function

The written allegation and the petition were modified to include a reference indicating whether fingerprints or

photographs have been taken. This requirement will alert the juvenile probation officer or the court if they have been taken.

Rules 300, 1300, 302 and 1302—Venue and Inter-County Transfer

These rules were modified to reflect the new definition of “official court record.”

“Juvenile court file” previously included all files, including court, probation and agency files. Then, the rules modified “juvenile’s court file” to “official court record.” Therefore, separate provisions were added so that the transferring court would transfer the court file (the official court record) to the receiving court and probation or the county agency would transfer the probation or agency file to the receiving probation office or county agency.

Rules 345 and 1345—Filing and Service

These rules were modified to reflect the new definition of “official court record.”

Rules 362 and 409—Requirements of the Summons, and Adjudication of Delinquency

If fingerprints or photographs have not been taken, the court must order them to be taken as required by the Juvenile Act. *See* 42 Pa.C.S. § 6308.

Rules 408, 409 and 515—Ruling on Offenses, Adjudication of Delinquency, and Dispositional Order

If the court finds that the juvenile did not commit all of the alleged delinquent acts pursuant to Rule 408(B) or the juvenile is not in need of treatment, supervision, or rehabilitation pursuant to Rule 409(A), the court must order the destruction of the fingerprints and photographs pursuant to 42 Pa.C.S. § 6341(a) and the records expunged pursuant to 18 Pa.C.S. § 9123(a)(1) and Rule 172.

If the court does find that the juvenile committed at least one of the offenses petitioned, there is no destruction of the fingerprints, photographs, or records.

If the court finds the juvenile is in need of treatment, supervision, or rehabilitation and fingerprints and photographs have not been taken, the court must order that they are taken and forwarded to the Central Repository pursuant to the statutory requirements.

[Pa.B. Doc. No. 10-51. Filed for public inspection January 8, 2010, 9:00 a.m.]

Title 249—PHILADELPHIA RULES

In Re: Joint General Court Regulation No. 2008-01; Residential Mortgage Foreclosure Diversion Program; Order Deleting Section 8 of Joint General Court Regulation No. 2008-01

Order

And Now, this 17th day of December, 2009, it is *Ordered, Adjudged and Decreed* that Section 8 of Joint General Court Regulation No. 2008-01 is deleted effective immediately, and it is further *Ordered, Adjudged and Decreed* that the program established by Joint General

Court Regulation No. 2008-01 shall hereafter be known as the “*Residential Mortgage Foreclosure Diversion Program*.”

By the Court

HONORABLE PAMELA PRYOR DEMBE,
President Judge

[Pa.B. Doc. No. 10-52. Filed for public inspection January 8, 2010, 9:00 a.m.]

Title 255—LOCAL COURT RULES

LANCASTER COUNTY

In Re: Lancaster County Rules of Criminal Procedure; No. 202; No. 24 AD 2009; CPJ. No. 7, Page 1357

Administrative Order

And Now, this 22nd day of December, 2009, it is hereby *Ordered* that new Lancaster County Rule of Criminal Procedure No. 202 is adopted as set forth as follows:

The Court Administrator is directed to:

1. File one (1) certified copy of this Order and Rule with the Administrative Office of Pennsylvania Courts.
2. File two (2) certified paper copies and one (1) diskette or CD-ROM containing this Order and Rule with the Legislative Reference Bureau for publication in the *Pennsylvania Bulletin*.
3. Publish a copy of this Order and Rule on the Unified Judicial System’s web site at <http://ujportal.pacourts.us/localrules/ruleselection.aspx>.
4. Keep continuously available for public inspection copies of the Order and Rule in the Prothonotary and Clerk of Courts Office.

This Order shall become effective 30 days after publication in the *Pennsylvania Bulletin*.

By the Court

LOUIS J. FARINA,
President Judge

Rule 202. Approval of Search Warrant Application by Attorney for the Commonwealth—Local Option.

The District Attorney, having filed a certification pursuant to Pa.R.Crim.P. 202, search warrants for the crimes listed below, shall not hereafter be issued by any judicial officer, unless the search warrant applications have the approval of an attorney for the Commonwealth before filing:

- A. Criminal Homicide in violation of 18 Pa.C.S.A. § 2501;
- B. Murder in any degree in violation of 18 Pa.C.S.A. § 2502;
- C. Voluntary Manslaughter in violation of 18 Pa.C.S.A. § 2503;
- D. Involuntary Manslaughter in violation of 18 Pa.C.S.A. § 2504;
- E. Homicide by Vehicle in violation of 75 Pa.C.S.A. § 3732;

F. Homicide by Vehicle While Driving Under Influence in violation of 75 Pa.C.S.A. § 3735;

G. Rape in violation of 18 Pa.C.S.A. § 3121;

H. Statutory Sexual Assault in violation of 18 Pa.C.S.A. § 3122.1;

I. Involuntary Deviate Sexual Intercourse in violation of 18 Pa.C.S.A. § 3123;

J. Aggravated Indecent Assault in violation of 18 Pa.C.S.A. § 3125;

K. Sexual Assault in violation of 18 Pa.C.S.A. § 3124.1;

L. Crimes Against Unborn Child in violation of 18 Pa.C.S.A. Chapter 26;

M. Arson in violation of 18 Pa.C.S.A. § 3301;

N. Obscene and Other Sexual Materials in violation of 18 Pa.C.S.A. § 5903;

O. Violation of The Controlled Substance, Drug, Device and Cosmetic Act, 35 P.S. § 780-113(30) (Delivery or Possession with Intent to Deliver a Controlled Substance); and

P. Cruelty to Animals in violation of 18 Pa.C.S.A. §§ 5511(a)(1)(i)—(iii), 5511(a)(2)(i) and (ii), 5511(a)(2.1)(i)(A) and (B), 5511(c)(1), 5511(c)(2)(ii), 5511(h.1)(1)—(7).

[Pa.B. Doc. No. 10-53. Filed for public inspection January 8, 2010, 9:00 a.m.]

LANCASTER COUNTY

In Re: Lancaster County Rules of Criminal Procedure; No. 507; No. 23 AD 2009; CPJ. No. 7, Page 1357

Administrative Order

And Now, this 22nd day of December, 2009, it is hereby Ordered that Lancaster County Rule of Criminal Procedure No. 507 is adopted as set forth as follows:

The Court Administrator is directed to:

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

2. File two (2) certified paper copies and one (1) diskette or CD-ROM containing this Order and Rule with the Legislative Reference Bureau for publication in the *Pennsylvania Bulletin*.

3. Publish a copy of this Order and Rule on the Unified Judicial System's web site at <http://ujportal.pacourts.us/localrules/ruleselection.aspx>.

4. Keep continuously available for public inspection copies of the Order and Rule in the Prothonotary and Clerk of Courts Office.

This Order shall become effective 30 days after publication in the *Pennsylvania Bulletin*.

By the Court

LOUIS J. FARINA,
President Judge

Rule 507. Approval of Police Complaints and Arrest Warrant Affidavits by the Attorney for the Commonwealth—Local Option.

The District Attorney, having filed a certification pursuant to Pa.R.Crim.P. 507, criminal complaints and arrest

warrant affidavits by police officers, as defined in the Rules of Criminal Procedure, charging the crimes listed below, shall not hereafter be accepted by any judicial officer, unless the complaints and affidavits have the approval of an attorney for the Commonwealth before filing:

A. Criminal Homicide in violation of 18 Pa.C.S.A. § 2501;

B. Murder in any degree in violation of 18 Pa.C.S.A. § 2502;

C. Voluntary Manslaughter in violation of 18 Pa.C.S.A. § 2503;

D. Involuntary Manslaughter in violation of 18 Pa.C.S.A. § 2504;

E. Homicide by Vehicle in violation of 75 Pa.C.S.A. § 3732;

F. Homicide by Vehicle While Driving Under Influence in violation of 75 Pa.C.S.A. § 3735;

G. Rape in violation of 18 Pa.C.S.A. § 3121;

H. Statutory Sexual Assault in violation of 18 Pa.C.S.A. § 3122.1;

I. Involuntary Deviate Sexual Intercourse in violation of 18 Pa.C.S.A. § 3123;

J. Aggravated Indecent Assault in violation of 18 Pa.C.S.A. § 3125;

K. Sexual Assault in violation of 18 Pa.C.S.A. § 3124.1;

L. Crimes Against Unborn Child in violation of 18 Pa.C.S.A. Chapter 26;

M. Arson in violation of 18 Pa.C.S.A. § 3301;

N. Obscene and Other Sexual Materials in violation of 18 Pa.C.S.A. § 5903;

O. Violation of The Controlled Substance, Drug, Device and Cosmetic Act, 35 P.S. § 780-113(30) (Delivery or Possession with Intent to Deliver a Controlled Substance); and

P. Cruelty to Animals in violation of 18 Pa.C.S.A. §§ 5511(a)(1)(i)—(iii), 5511(a)(2)(i) and (ii), 5511(a)(2.1)(i)(A) and (B), 5511(c)(1), 5511(c)(2)(ii), 5511(h.1)(1)—(7).

[Pa.B. Doc. No. 10-54. Filed for public inspection January 8, 2010, 9:00 a.m.]

SUPREME COURT

Duty Assignment Schedule for Emergency Petitions in the Year 2010; No. 337; Judicial Administration

Order

Per Curiam:

And Now, this 15th day of December, 2009, the emergency duty assignment for the year 2010, is herewith adopted.

January	Justice J. Michael Eakin Justice Seamus P. McCaffery	(Eastern District) (Western District)
February	Justice Thomas G. Saylor Justice Debra Todd	(Eastern District) (Western District)

March Justice Max Baer (Eastern District)
Justice Joan Orié Melvin (Western District)

April Justice J. Michael Eakin (Eastern District)
Justice Seamus P. McCaffery (Western District)

May Justice Thomas G. Saylor (Eastern District)
Justice Debra Todd (Western District)

June Justice Max Baer (Eastern District)
Justice Joan Orié Melvin (Western District)

July Justice J. Michael Eakin (Eastern District)
Justice Seamus P. McCaffery (Western District)

August Justice Thomas G. Saylor (Eastern District)
Justice Debra Todd (Western District)

September Justice Max Baer (Eastern District)
Justice Joan Orié Melvin (Western District)

October Justice J. Michael Eakin (Eastern District)
Justice Seamus P. McCaffery (Western District)

November Justice Thomas G. Saylor (Eastern District)
Justice Debra Todd (Western District)

December Justice Max Baer (Eastern District)
Justice Joan Orié Melvin (Western District)

PATRICIA NICOLA,
Chief Clerk
Supreme Court of Pennsylvania

[Pa.B. Doc. No. 10-55. Filed for public inspection January 8, 2010, 9:00 a.m.]