

THE COURTS

Title 237—JUVENILE RULES

PART I. RULES

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

Order Amending Rules 120, 163, 167, 170, 172, 370, 408, 409 and 1120 and Adopting New Rule 173 of the Rules of Juvenile Court Procedure; No. 641 Supreme Court Rules Doc.

Order

Per Curiam

And Now, this 28th day of July, 2014, upon the recommendation of the Juvenile Court Procedural Rules Committee; the proposal having been published for public comment before adoption at 40 Pa.B. 4910 (August 28, 2010), in the *Atlantic Reporter* (Second Series Advance Sheets, Vol. 999, No. 2, September 17, 2010), 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 amendment of Rules 120, 163, 167, 170, 172, 370, 408, 409, and 1120, and the adoption of new Rule 173 of the Pennsylvania Rules of Juvenile Court Procedure are approved in the following form.

This *Order* shall be processed in accordance with Pa.R.J.A. No. 103(b), and shall be effective September 29, 2014.

Annex A

TITLE 237. JUVENILE RULES

PART I. RULES

Subpart A. DELINQUENCY MATTERS

CHAPTER 1. GENERAL PROVISIONS

PART A. BUSINESS OF COURTS

Rule 120. Definitions.

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COPY is an exact duplicate of an original document, including any required signatures, produced through mechanical or electronic means and includes, but is not limited to, copies reproduced by a photocopier, transmission using facsimile equipment, or by scanning into and printing out of a computer.

COUNTY AGENCY is the county children and youth social service agency established pursuant to the County Institution District Law, 62 P. S. § 2305 (1937), or established by the county commissioners in the judicial districts where the County Institution District Law was abolished, 16 P. S. §§ 2161 and 2168, and supervised by the Department of Public Welfare pursuant to the Public Welfare Code, 62 P. S. § 901 *et seq.*

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.

DESTROY or DESTRUCTION is to erase permanently or the process of permanent erasure of an item leaving no trace or indication that it ever existed.

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. Detention facility shall not include any county jail or state prison.

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.

EDUCATIONAL DECISION MAKER is a responsible adult appointed by the court to make decisions regarding a juvenile's education when the juvenile has no guardian or the court has limited the guardian's right to make such decisions for the juvenile. The educational decision maker acts as the juvenile's representative concerning all matters regarding education unless the court specifically limits the authority of the educational decision maker.

EXPUNGE or EXPUNGEMENT is to erase legally or the process of legal erasure of the juvenile record or the sealing of the record making it permanently unavailable to the public but where some information may be retained only by a juvenile justice agency for limited purposes as provided in Rule 173.

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.

HEALTH CARE is care related to any medical need including physical, mental, and dental health. This term is used in the broadest sense to include any type of health need.

INSPECTION is the official examination of a document or evidence as authorized by Rules 160 and 161.

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

INTELLIGENCE INFORMATION is information concerning the habits, practices, characteristics, possessions, associations, or financial status of any juvenile compiled in an effort to anticipate, prevent, monitor, investigate, or prosecute delinquent activity.

INVESTIGATIVE INFORMATION is the information assembled as result of the performance of any inquiry, formal or informal, into delinquent activity or an allegation of a delinquent act and may include *modus operandi* information.

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

JUDGE is a judge of the Court of Common Pleas.

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, upon or after the juvenile's tenth birthday,

committed a delinquent act before reaching eighteen years of age or who is alleged to have violated the terms of juvenile probation prior to termination of juvenile court supervision.

JUVENILE JUSTICE AGENCY is any court, including the minor judiciary, or any other governmental agency specifically authorized to perform the administration of juvenile justice as its function. Juvenile justice agencies include, but are not limited to, organized State and municipal police departments, probation agencies, district or prosecuting attorneys, the Juvenile Court Judges' Commission, the Administrative Office of Pennsylvania Courts, or any such persons, agencies, or departments as determined by the court to be juvenile justice agencies.

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

JUVENILE PROBATION OFFICER is a person who has been appointed by the court or employed by a county's juvenile probation office, and who has been properly commissioned by being sworn in as an officer of the court to exercise the powers and duties set forth in Rule 195, the Juvenile Act, and the Child Protective Services Law.

JUVENILE RECORD is the information collected and retained by juvenile justice agencies concerning juveniles, and arising from the initiation of delinquency proceedings, consisting of identifiable descriptions, dates and notations of arrest, written allegations, petitions, other formal charging documents, official court records, and any dispositions arising from those records. The juvenile record does not include intelligence information or investigative information that is maintained separately by law enforcement agencies.

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.

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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.

SERVICE PROVIDER is any entity that provides services to juveniles pursuant to a proceeding under the Juvenile Act, 42 Pa.C.S. § 6301 et seq.

SOCIAL STUDY is a pre-dispositional report, which summarizes important information concerning the juvenile to aid the court in determining the disposition.

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Comment

A party to the proceedings is not to function as the clerk of courts. Because the clerk of courts maintains the

official court record, this person is to remain neutral and unbiased by having no personal connection to the proceedings.

"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.

The county institution districts, as used in the definition of "county agency," 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 counties of those 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 187. See Rule 210 for the power of magisterial district judges to issue arrest warrants.

"Destroy" and "expunge" do not have the same meaning. "Destroy" is to erase permanently, whereas "expunge" is to erase legally or seal the record. Unless authorized by rule or otherwise provided by law, no person is to have access to expunged items. Only in extraordinary circumstances would a record be opened by court order, such as to retrieve specific information not clarified or documented correctly pursuant to Rule 173. However, specific information from juvenile records could be retained for limited purposes. See Rule 173 and its Comment.

"Detention facility" is not to include any county jail, state prison, penal institution, or other facility used primarily to detain adults who have not been released on bail and who are alleged to have committed a criminal offense. However, nothing in this rule precludes the use of a county jail or state prison for minors when criminal proceedings have been commenced. For example, a minor may be detained in a county jail for a direct-file case when it is alleged a criminal offense has been committed.

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"Health care" includes, but is not limited to, routine physical check-ups and examinations; emergency health care; surgeries; exploratory testing; psychological exams, counseling, therapy and treatment programs; drug and alcohol treatment; support groups; routine eye examinations and procedures; teeth cleanings, fluoride treatments, fillings, preventative dental treatments, root canals, and other dental surgeries; and any other examination or treatment relating to any physical, mental, and dental needs of the juvenile.

The term "intelligence information" may include information on prescribing, dispensing, selling, obtaining, or using a controlled substance as defined in Controlled Substance, Drug, Device and Cosmetic Act, 35 P.S. § 780-101 et seq.

The term "judge" refers to a judge of the Court of Common Pleas, including senior judges when they are properly certified. It does not include masters or magisterial district judges. Magisterial district judges, however, are included within the definition of ["courts"] "court" when they have the power to issue arrest warrants pursuant to Rule 210. See discussion supra under definition of "court." Arrest warrants are distinguished from bench warrants pursuant to Rules 140 and 141. Only

judges of the Court of Common Pleas may issue bench warrants if the juvenile: 1) fails to appear at a hearing; or 2) absconds from the court's supervision.

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A properly commissioned juvenile probation officer is vested with all the powers and duties set forth in 42 Pa.C.S. § 6304, and the power to take a child into protective custody as a duly authorized officer of the court pursuant to 42 Pa.C.S. § 6324 unless the President Judge has limited such authority pursuant to Rule 195. *See also* 23 Pa.C.S. § 6315.

“Juvenile records,” as used in these Rules, do not include investigative and intelligence information kept separately by law enforcement agencies or the attorney for the Commonwealth. Those documents kept separately by law enforcement agencies are not subject to Rules 170 and 172. See 18 Pa.C.S. §§ 9105 & 9106. See also Rule 173 for retention of specific information from juvenile records.

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.

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 files unless they are made a part of the official court record by being filed with the clerk of courts.

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**] **submitted** 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.

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Official Note: Rule 120 adopted April 1, 2005, effective October 1, 2005. Amended December 30, 2005, effective immediately. Amended March 23, 2007, effective August 1, 2007. Amended February 26, 2008, effective June 1, 2008. Amended July 28, 2009, effective immediately. Amended December 24, 2009, effective immediately. Amended April 21, 2011, effective July 1, 2011. Amended April 29, 2011, effective July 1, 2011. Amended May 20, 2011, effective July 1, 2011. Amended September 7, 2011, effective immediately. Amended September 20, 2011, effective November 1, 2011. Amended May 21, 2012, effective August 1, 2012. Amended June 24, 2013, effective January 1, 2014. Amended June 28, 2013, effective immediately. Amended March 10, 2014, effective immediately. **Amended July 28, 2014, effective September 29, 2014.**

Committee Explanatory Reports:

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Final Report explaining the amendments to Rule 120 published with the Court’s Order at 44 Pa.B. 5447 (August 16, 2014).

PART C. RECORDS

PART C(1). ACCESS TO JUVENILE RECORDS

Rule 163. Release of Information to School.

A. *Generally.* Upon finding a juvenile to be a delinquent, the court shall, through the juvenile probation office, provide the following information to the building principal or his or her designee of any public, private, or parochial school in which the juvenile is enrolled:

- 1) name and address of the juvenile;
- 2) the delinquent act or acts that the juvenile was found to have committed;
- 3) a brief description of the delinquent act or acts; and
- 4) the disposition of the case.

B. *Notice to school.* In addition to the information provided in paragraph (A), the juvenile probation office shall provide notice of the following information:

1) a statement informing the building principal or his or her designee that information received under this rule:

a) shall be maintained separately from the juvenile’s official school record;

b) is for the limited purposes of:

i) protecting school personnel and students; and

ii) arranging for appropriate counseling and education for the juvenile;

c) may not be used for school disciplinary decisions concerning the juvenile unless:

i) the juvenile was under the supervision of the board of directors at the time of the incident;

ii) the act or acts that were substantiated by the court took place on or within 1,500 feet of the school property; and

iii) the school has complied with all other statutory, regulatory, and constitutional provisions relative to the imposition of school discipline; and

d) shall be shared with the juvenile’s teachers.

2) a statement informing the building principal or his or her designee of the requirement to:

a) maintain a log of all school district employees, or building principals or their designees from other school districts, to whom this information was subsequently provided when a juvenile was transferred to another school; and

b) provide a copy of the notice as listed in paragraph (B)(1) to the new school.

[B.] C. *Additional information.*

1) If the juvenile is adjudicated delinquent of a felony offense, the court, through the juvenile probation office, shall provide to the building principal or his or her designee relevant information regarding the juvenile contained in the juvenile probation or treatment reports pertaining to the adjudication, prior delinquent history, and the supervision plan of the juvenile.

2) The court or the juvenile probation office shall have the authority to share any additional information regard-

ing the juvenile under its jurisdiction with the building principal or his or her designee as deemed necessary to protect public safety or to enable appropriate treatment, supervision, or rehabilitation of the juvenile.

D. Acknowledgement of notice and information. The building principal or his or her designee shall provide written acknowledgement to the juvenile probation office of the receipt of, and the requirements and restrictions pertaining to, the information provided under this rule.

[C.] E. *Transfers to other schools.*

1) Any information provided to and maintained by the building principal or his or her designee under this rule shall be transferred to the building principal or his or her designee of any public, private, or parochial school to which the juvenile transfers enrollment.

2) When this information is transferred to an official from another school district, the building principal or his or her designee shall include a copy of the notice initially provided by the juvenile probation office pursuant to paragraph (B).

3) The building principal or his or her designee shall maintain a log of all individuals from other school districts to whom this information is subsequently provided, and shall inform the juvenile probation office upon providing this information to officials from other school districts.

[D.] F. *Maintained separately.* Any information provided to the building principal or his or her designee under this rule shall be maintained separately from the juvenile’s official school record.

[E.] G. *Dissemination.* Unauthorized dissemination of any information contained in the school record to any unauthorized person, agency, or department may result in a finding of contempt of court.

Comment

Pursuant to paragraph (B), the juvenile probation office is required to provide notice to the building principal or his or her designee for maintaining court records separately from official school records. Some school districts have established local policies relating to the receipt of this information that requires the information to be provided to a school district official other than a building principal. That individual should be regarded as the building principal’s designee with respect to the provisions of this rule.

The delinquency information in the school record is to be used only by school officials and is not to be released to the general public or third parties unless ordered by the court. In addition, information sent to the school may not be used for disciplinary purposes against the juvenile. The juvenile probation office should send a notice to the school when it sends information to the school concerning the findings of the court. The notice should state that any information received by the school should not be used against the juvenile for disciplinary reasons, including suspensions and expulsions. See 42 Pa.C.S. § 6341(b.1)(4).

The requirements in paragraph (B) are derived from 42 Pa.C.S. § 6341(b.1)(4), 24 P. S. § 5-510; *D.O.F. v. Lewisburg Area School District*, 868 A.2d 28 (Pa. Commw. Ct. 2004) (holding schools do not have the authority to discipline students, even for actions on school property, if they are not currently

under school supervision); and *Hoke ex rel. Reidenback v. Elizabethtown Area School District*, 833 A.2d 304 (Pa. Commw. Ct. 2003).

For further dissemination and usage in school, see 42 Pa.C.S. § 6341(b.1).

In paragraph (D), nothing is intended by this rule to preclude acknowledgement by electronic means.

Pursuant to paragraph (F), information provided by the court is to be kept and maintained separately from the juvenile’s official school record. If the court has ordered a record to be expunged, the court, concurrently, is to order the destruction of the information provided to the school by the court, including information subsequently provided to another school. The terms “expunged” and “destruction” should not be confused in this Comment. Because the school does not fall within any category for retention of information pursuant to Rule 173, there is no reason for the school to maintain its information. Therefore, the school is to destroy all information received from the court.

Official Note: Rule 163 adopted April 1, 2005, effective October 1, 2005. Amended May 21, 2012, effective August 1, 2012. Amended July 28, 2014, effective September 29, 2014.

Committee Explanatory Reports:

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Final Report explaining the amendments to Rule 163 published with the Court’s Order at 44 Pa.B. 5447 (August 16, 2014).

PART C(2). MAINTAINING RECORDS

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

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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] the attorney for the Commonwealth, the juvenile’s attorney, the juvenile, the juvenile probation officer, and any other person, service provider, or agency listed in the court order.

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 or other court designee.

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

a) [in writing] by:

i) personal delivery to the party’s attorney[, and if unrepresented,] or 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] the 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,] or 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,] or the juvenile by carrier service; or

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Official Note: Rule 167 adopted April 1, 2005, effective October 1, 2005. Amended December 24, 2009, effective immediately. Amended July 28, 2014, effective September 29, 2014.

Committee Explanatory Reports:

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Final Report explaining the amendments to Rule 167 published with the Court's Order at 44 Pa.B. 5447 (August 16, 2014).

PART C(3). EXPUNGING OR DESTROYING RECORDS, FINGERPRINTS, AND PHOTOGRAPHS

Rule 170. [Expunging or Destroying Juvenile Court] Motion to Expunge or Destroy Records.

A. Motion. [Juvenile records may be expunged upon motion.] Upon motion, or sua sponte, expungement proceedings may be commenced:

1) if a written allegation is not approved for prosecution;

2) if the petition is dismissed by the court;

3) in consent decree and informal adjustment cases:

a) when six months have elapsed since the final discharge of the juvenile from supervision; and

b) if no proceeding seeking adjudication or conviction is pending;

4) when a juvenile has been discharged from court supervision pursuant to Rule 631:

a) five years have elapsed;

b) the juvenile has not been convicted or adjudicated delinquent for a felony or misdemeanor;

c) no court proceeding is pending seeking such conviction or adjudication; and

d) the delinquent act is not an act precluded from expungement pursuant to 18 Pa.C.S. § 9123(a.1); or

5) when the attorney for the Commonwealth consents to the expungement.

B. Contents of [Motion] motion. A motion, which shall [take the form of] include a proposed court order, shall contain the following information:

1) [The] the name of the juvenile;

* * * * *

9) the reasons and statutory authority for expunging or destroying the [document] documents, fingerprints, or photographs; and

10) the agencies upon which certified copies of the court order shall be served.

C. Service of [Motion] motion. In addition to the service required by Rule 345, the movant shall serve the motion on the chief juvenile probation officer.

D. Answer.

1) The attorney for the Commonwealth, and any other person upon whom the motion was served, may file an answer to the motion.

2) If objections to the motion are not made within thirty days of the filing of the motion, they shall be deemed waived.

E. [Hearing. Unless the attorney for the Commonwealth consents to expunging the records, the court shall schedule and conduct a hearing, and thereafter grant or deny the motion.] Court's response to the motion. The court shall conduct a hearing or grant or deny the motion after giving consideration to the following factors:

1) the type of offense;

2) the individual's age, history of employment, history of academic or vocational training, delinquent or criminal activity, and drug or alcohol issues;

3) adverse consequences that the individual may suffer if the records are not expunged; and

4) whether retention of the record is required for purposes of public safety.

F. Inter-county transfer cases.

1) A motion to expunge or destroy records shall be filed in the county in which the adjudication of delinquency was entered.

2) A motion regarding the records of a juvenile whose disposition did not involve an adjudication of delinquency shall be filed in the county in which the disposition occurred.

3) The court entering an order to expunge or destroy records shall direct the order to any other court possessing records pertaining to the case.

Comment

[See 18 Pa.C.S. § 9123 for records that may be expunged and 42 Pa.C.S. § 6341(a) for destruction of fingerprints and photographs.]

Paragraph (A) provides that any party may file a motion to expunge or destroy records, files, fingerprints, or photographs, or the court, sua sponte, may commence expungement proceedings.

Under paragraphs (A)(1) & (2), the written allegation or petition may be dismissed for several reasons, including, but not limited to, when: 1) a juvenile completes an informal adjustment or diversionary program; 2) the attorney for the Commonwealth declines to prosecute; 3) probable cause is not found at the detention hearing pursuant to Rule 242(C)(1); 4) there is no finding on the offenses pursuant to Rule 408(B); or 5) there is no finding of a need for treatment, supervision, and rehabilitation pursuant to Rule 409(A)(1). Expungement proceedings may be commenced upon these dismissals of the written allegation or the petition.

Under paragraph (B)(6), any number assigned to police papers helpful in tracking the police report or written allegation that would assist the law enforcement agency in expunging or destroying the document is to be listed. A reference number could be an offense tracking number, district control number, crime control number, incident

number, Philadelphia identification number, or another number assigned by the law enforcement agency to track the document.

Pursuant to paragraph (B)(9), the reasons for expunging the records or destroying fingerprints and photographs are to be included in the motion, specifically citing which provision of paragraph (A) applies.

“Expunge” or “expungement” is defined by Rule 120, which means to erase legally, or the process of legal erasure of an item making it permanently not available to the public but where some information may be retained only for limited purposes by agencies or departments. *See* Rule 173. *See also* Comment to Rule 120.

Rule 173 provides for the retention of certain information that is crucial for: 1) determining compliance with the order to expunge; 2) determining eligibility in a court program, determining the grading or penalty of an offense, or for other purposes as provided by law; 3) maintaining statistical and research information; 4) maintaining intelligence and investigative information; and 5) financial audits.

The new procedures instituted with the changes of 201- require one procedure for expunging or destroying records, fingerprints, and photographs. One order will go to the appropriate agencies and departments as required by Rule 172 and will help those agencies become more efficient in the manner in which items are destroyed or expunged.

Pursuant to paragraph (D), the attorney for the Commonwealth is given an opportunity to respond to the motion. The attorney for the Commonwealth should specify its position on whether items should be expunged or destroyed. Expunged items remain available to law enforcement agencies and the attorney for the Commonwealth in limited circumstances, whereas destroyed items are permanently erased. The attorney for the Commonwealth should consent to expunging records unless the attorney for the Commonwealth demonstrates good cause for the retention of records. *See In re A.B.*, 987 A.2d 769 (Pa. Super. Ct. 2009).

The reasons for maintaining information pursuant to Rule 173 do not qualify as good cause against expunging records under this rule. Maintenance of specific information is different from the maintenance of the official court record or other official records of the juvenile probation office or a law enforcement agency. Pursuant to Rule 173, a separate document, file, or database is to be created. *See* Rule 173 and its Comment.

If the attorney for the Commonwealth objects to expunging or destroying the records, the court should conduct a hearing on the motion.

Pursuant to paragraph (E)(3), the court is to consider adverse consequences that an individual may suffer if the records are not expunged. Adverse consequences are discussed in The Pennsylvania Collateral Consequences Checklist instituted by Pennsylvania Juvenile Indigent Defense Action Network in conjunction with the initiative the Models for Change System Reform in Juvenile Justice. This checklist may be assessed on the Supreme Court’s website at <http://www.pacourts.us/T/BoardsCommittees/JuvenileCourtProcedural/>.

The attorney for the Commonwealth in the county in which a motion is filed in an inter-county transfer case pursuant to paragraph (F) should provide notice of the motion to, and communicate with, the attorney for the Commonwealth and the juvenile probation office in the county to which, or from which, the case was transferred.

Notwithstanding this rule, *see* 18 Pa.C.S. § 9123(a.1) for cases that are ineligible for expungement proceedings. *See also* 42 Pa.C.S. § 6341 for destruction of fingerprints and photographs.

Official Note: Rule 170 adopted April 1, 2005, effective October 1, 2005. Amended July 28, 2014, effective September 29, 2014.

Committee Explanatory Reports:

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Final Report explaining the amendments to Rule 170 published with the Court’s Order at 44 Pa.B. 5447 (August 16, 2014).

Rule 172. Order to Expunge or Destroy.

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

- 1) [All] all items contained in Rule 170(B);
- 2) a directive specifically identifying which items shall be expunged or destroyed, including all law enforcement records, juvenile probation files, official court records, other juvenile records, fingerprints, photographs, and any other information pertaining to the arrest;
- 3) a directive that the keeper of the juvenile records shall expunge or destroy such items;
- 4) a directive that each agency, department, or office, upon request, shall notify the court or its designee, in writing, of the action taken in response to the order to expunge or destroy;
- 5) a directive to a school building principal or his or her designee to destroy information received from the court pursuant to Rule 163;

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

[3] 7) the date of the court order.

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

Comment

Pursuant to paragraph (A)(2), the court is to list specifically which items are to be expunged and which items are to be destroyed. Specific information retained pursuant to Rule 173 should be expunged but not destroyed. In most instances, the court should order that the fingerprints and photographs be destroyed and that the remaining records and documents be expunged.

Pursuant to paragraph (A)(4), an agency, department, or office may be requested to produce evidence of compliance with the court order to expunge. Non-compliance may result in a finding of contempt of court.

Pursuant to paragraph (A)(5), the school is to destroy all information received from the court. Because the school is required to store this information separately under Rule 163(F), destruction should not be difficult. See Rule 163 and its Comment. The court may also require the school to provide written notice of the action taken.

Official Note: Rule 172 adopted April 1, 2005, effective October 1, 2005. Amended December 24, 2009, effective immediately. Amended July 28, 2014, effective September 29, 2014.

Committee Explanatory Reports:

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Final Report explaining the amendments to Rule 172 published with the Court's Order at 44 Pa.B. 5447 (August 16, 2014).

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

Rule 173. Retention of Specific Information from Juvenile Records.

A. Maintenance of specific information.

1) All information retained according to this rule shall be confidential. This information is not eligible for inspection pursuant to Rule 160.

2) If any information maintained according to this rule is disseminated to any unauthorized person, agency, department, or office, the person disseminating the information shall be held in contempt of court.

B. Compliance with expungement order. The court or juvenile probation office shall maintain the following information in a separate document, file, or database for the purpose of determining compliance with an expungement order:

- 1) a list of juvenile names;
- 2) identifying information, such as date of birth;
- 3) the case docket number;
- 4) a copy of the order to expunge; and
- 5) any compliance letters sent pursuant to Rule 172(A)(4).

C. Eligibility for court program, the grading or penalty of an offense, or for other purposes as provided by law. The court, juvenile probation office, or the attorney for the Commonwealth shall maintain the following information in a separate document, file, or database for determining eligibility for a court program, the grading or penalty of an offense, or for other purposes as provided by law:

- 1) a list of juvenile names;
- 2) identifying information, such as date of birth;
- 3) the case docket number;
- 4) a list of the delinquent acts alleged or petitioned;
- 5) a list of the delinquent acts found, if applicable; and
- 6) the disposition of the case.

D. Statistical and research purposes. The juvenile probation office, the Juvenile Court Judges' Commission, and the Administrative Office of Pennsylvania Courts may maintain the following information in a separate document, file, or database for statistical and research purposes:

- 1) demographic information;

- 2) a list of the delinquent acts alleged or petitioned;
- 3) a list of the delinquent acts found, if applicable;
- 4) the disposition of the case; and
- 5) any recidivism information.

E. Intelligence and investigative information. Law enforcement agencies and the attorney for the Commonwealth may maintain the following information in a separate document, file, or database for intelligence and investigative purposes:

- 1) a list of juvenile names;
- 2) identifying information, such as date of birth;
- 3) intelligence information; and
- 4) investigative information.

F. Financial audits. The juvenile probation office, placement facilities, service providers, and the county agency shall maintain the necessary information in a separate document, file, or database for financial audits, which may include, but is not limited to:

- 1) the number of juveniles sent to a placement facility;
- 2) the amount of money paid for the court-ordered service; and
- 3) the dates of service.

Comment

As used throughout this rule, a separate document, file, or database is to be interpreted as a creation of a new document, file, or database when the original document or file has been expunged pursuant to a court order under Rule 172. This rule provides for the retention of *information* for specific reasons. Original *records* will be expunged but specific *information* contained within those records will be extracted and placed into a new document, file, or database. Only the specific items listed in this rule may be maintained by the specified individuals and entities. All remaining information is to be expunged.

There are several legitimate reasons for retaining specific information relating to a case. As provided in paragraph (A)(1), all information retained according to this rule is to be kept confidential and is not subject to inspection pursuant to Rule 160. If any person does not maintain confidentiality of information, that person is to be held in contempt of court. See paragraph (A)(2). However, entities may share information retained pursuant to this rule if the reasons for sharing the information is consistent with this rule and confidentiality is maintained.

Paragraph (B) provides for the maintenance of compliance letters for expunging records. The court may access the document, file, or database to ensure that a court order to expunge a particular record has been followed. This may also be helpful when a juvenile may inquire as to whether the court order was followed.

Paragraph (C) allows specific information concerning a juvenile to be maintained to determine the juvenile's eligibility for a future court program, the grading or penalty of a new offense, and for other purposes as provided by law. There are instances when the grading or penalty for a new offense is greater because of prior offense(s), for example, retail theft, theft by vehicle, library theft, and driving under the influence of alcohol or other controlled substance. However, offenses cannot be used in a subsequent proceeding unless specifically authorized by law.

Paragraph (D) provides for the retention of specific information for statistical and research purposes. A juvenile's name may not be associated with this information. Demographics, however, may be retained. Aggregate data compiled under this paragraph also may be shared with other persons as statistical and research records only.

Pursuant to paragraph (E), only law enforcement agencies and the attorney for the Commonwealth may retain intelligence and investigative information.

Paragraph (F) provides for the retention of specific information for financial audits. This is important to provide records of service.

Official Note: Rule 173 adopted July 28, 2014, effective September 29, 2014.

Committee Explanatory Reports:

Final Report explaining the provisions of Rule 173 published with the Court's Order at 44 Pa.B. 5447 (August 16, 2014).

CHAPTER 3. PRE-ADJUDICATORY PROCEDURES

PART E. CONSENT DECREE

Rule 370. Consent Decree.

A. Agreement.

1) At any time after the filing of a petition and before the entry of an adjudication order, the court may, upon agreement of the attorney for the Commonwealth and the [juvenile's attorney or the juvenile, if unrepresented,] juvenile suspend the proceedings, and continue the juvenile under supervision in the juvenile's home, under terms and conditions negotiated with the juvenile probation office.

2) The order of the court continuing the juvenile under supervision shall be known as a consent decree.

B. Explanation of conditions. The court shall explain on the record or in writing:

* * * * *
Comment
* * * * *

If a juvenile violates the conditions of the consent decree, double jeopardy does not attach and bar subsequent prosecution. *See Commonwealth v. Szebin*, 785 A.2d 103 (Pa. Super. Ct. 2001). In *Commonwealth v. Wexler*, 431 A.2d 877 (Pa. 1981), the Supreme Court viewed a consent decree in the same fashion as Accelerated Rehabilitative Disposition. *See also In re John W.*, 446 A.2d 621 (Pa. Super. Ct. 1982).

Nothing in this rule prohibits the entry of a consent decree after there has been an admission pursuant to Rule 407 or after there has been a ruling on the offenses pursuant to Rule 408. See also Comment to Rule 408.

Official Note: Rule 370 adopted April 1, 2005, effective October 1, 2005. Amended July 28, 2014, effective September 29, 2014.

Committee Explanatory Reports:

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Final Report explaining the amendments to Rule 370 published with Court's Order at 44 Pa.B. 5447 (August 16, 2014).

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**] committed none of the alleged delinquent acts, the court shall dismiss the 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**] order, *sua sponte*, the expungement of the record and destruction of fingerprints and photographs related to the dismissed petition pursuant to 18 Pa.C.S. § 9123(a)(1), 42 Pa.C.S. § 6308, and Rule [172] 170(A).

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

C. Committed act. [If] After an adjudicatory hearing, if the court finds that the juvenile committed any delinquent act, the court shall proceed as provided in Rule 409 or enter a consent decree pursuant to Rule 370.

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").

Pursuant to paragraph (B), if the court finds that the juvenile [**did not commit all**] committed none of the alleged delinquent acts, the court, [**upon its own motion, is to expunge the records pursuant to**] *sua sponte*, is to expunge or destroy the records, fingerprints, and photographs pursuant to Rule 170(A) and 18 Pa.C.S. § 9123(a)(1). Absent cause shown, the court is to expunge the records pursuant to Rule 172.

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

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.

Paragraph (C) requires that there is to be an adjudicatory hearing before proceeding pursuant to Rule 409. This rule is not meant to preclude the entry of a consent decree after a finding on an offense pursuant to paragraph (C). If a consent decree is ordered, the court does not proceed under Rule 409.

If the court finds that the juvenile [**did not commit all**] **committed none** of the alleged delinquent acts and dismisses the petition, the victim, if not present, shall be notified of the final outcome of the proceeding. See Victim’s Bill of Rights, 18 P.S. § 11.201 *et seq.*

Official Note: Rule 408 adopted April 1, 2005, effective October 1, 2005. Amended December 24, 2009, effective immediately. Amended May 26, 2011, effective July 1, 2011. **Amended July 28, 2014, effective September 29, 2014.**

Committee Explanatory Reports:

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Final Report explaining the amendments to Rule 408 published with Court’s Order at 44 Pa.B. 5447 (August 16, 2014).

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 **records, fingerprints, and photographs** taken shall be **expunged or destroyed.**

* * * * *

Comment

* * * * *

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)(1)(b), the court is to specify which items are to be expunged and which items are to be destroyed. See Rule 172(A)(2) and its Comment.

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. Amended May 26, 2011, effective July 1, 2011. **Amended July 28, 2014, effective September 29, 2014.**

Committee Explanatory Reports:

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Final Report explaining the amendments to Rule 409 published with Court’s Order at 44 Pa.B. 5447 (August 16, 2014).

**Subpart B. DEPENDENCY MATTERS
CHAPTER 11. GENERAL PROVISIONS**

PART A. BUSINESS OF COURTS

Rule 1120. Definitions.

* * * * *

COUNTY AGENCY is the county children and youth social service agency established pursuant to the County Institution District Law, 62 [Pa.C.S.] P.S. § 2305 (1937) or established through the county commissioners in the judicial districts where the County Institution District Law was abolished, 16 P.S. §§ 2161[,] and 2168, and supervised by the Department of Public Welfare pursuant to the Public Welfare Code, 62 [Pa.C.S.] P.S. § 901 *et seq.*

* * * * *

Comment

* * * * *

The county institution districts, **as used in the definition of “county agency,”** 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**] **counties of those** 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.

* * * * *

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. Amended April 21, 2011, effective July 1, 2011. Amended April 29, 2011, effective July 1, 2011. Amended May 20, 2011, effective July 1, 2011. Amended June 24, 2013, effective January 1, 2014. Amended October 21, 2013, effective December 1, 2013. **Amended July 28, 2014, effective September 29, 2014.**

Committee Explanatory Reports:

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Final Report explaining the amendments to Rule 1120 published with Court’s Order at 44 Pa.B. 5447 (August 16, 2014).

**EXPLANATORY REPORT
July 2014**

The Supreme Court of Pennsylvania has adopted the amendments to Rules 120, 163, 167, 170, 172, 370, 408, 409, and 1120, and adopted Rule 173. The amendments are effective September 29, 2014.

The amendments described herein primarily concern the procedures for expunging and destroying documents, fingerprints, and photographs.

Rules 120 and 1120—Definitions

The term “county agency” is defined in the dependency rules. Because of its use this term in the delinquency rules, this definition has been added to Rule 120.

Proposed Rule 120 provides specific definitions of “destroy” and “expunge.” Although many standard dictionaries and thesauruses use these terms to define each other or as synonyms, it is important to note that they have different legal meanings.

“Destroy,” as used in these Rules, is the permanent erasure of a document or item. There shall be nothing left to trace or indicate that the item ever existed.

The term, “expunge,” as distinguished from destroy means making a document or item not available to the public under any circumstances. There are several circumstances where the information may be necessarily

retained for limited use by “juvenile justice agencies” and/or for statistical purposes. However, expunging a document allows the juvenile to have a “clean record” when trying to secure a job, enrolling in college, or enlisting in the military.

“Intelligence information” and “investigative information” have also been defined to limit the information that may be kept by “juvenile justice agencies.”

“Juvenile justice agency” is defined as any court and agencies authorized to perform the administration of justice, including the attorney for the Commonwealth. This is especially important in retention of specific information to determine subsequent eligibility in a court program.

“Juvenile record” is defined to discern it from the “official court record.” The “official court record” is the juvenile court file maintained by the clerk of courts; whereas, the “juvenile record” is collected and maintained by “juvenile justice agencies.”

“Service provider” was added to Rules 167(B) and 173(F). It is defined as any entity that provides services to juveniles pursuant to a proceeding under the Juvenile Act.

Rule 163—Release of Information to School

When the court enters an order to expunge records, it should concurrently enter an order to destroy all information provided to the school. Because the school is not a “juvenile justice agency”, it should not retain any information provided by the court.

Paragraph (B) of this rule requires that the school maintain a separate file of information provided from the court. This information is not to be placed in the juvenile’s official school record. Therefore, when the court enters a destruction order, the school can destroy the separate file without affecting the official school record.

Paragraph (D) requires the building principal to acknowledge receipt of his or her requirements pursuant to this rule.

If the juvenile transfers to another school, the building principal must transfer the notice and keep a log of all the individuals to whom this information was subsequently provided. *See* paragraph (E).

Rule 167—Filings and Service of Court Orders and Notices

Rule 167 is amended to include a party, juvenile probation officer, and any other person, service provider, or agency listed in the court order among those individuals or entities who must receive copies of court orders and notices.

The juvenile should always receive a copy of court orders and notices regardless of whether the juvenile is represented by counsel. The juvenile probation officer and any other person, service provider, or agency listed in the court order should also be provided with a copy.

Rule 170—Motion to Expunge or Destroy Records

Upon motion, the court may order that juvenile records, fingerprints, or photograph be expunged or destroyed.

The court should specify whether an item is being destroyed or expunged. The presentation of a motion allows the Commonwealth the opportunity to object and provide compelling reasons why the items at issue should be “expunged,” rather than “destroyed.”

Intelligence and investigative information kept separately by law enforcement agencies is not subject to this rule.

Rule 172—Order to Expunge or Destroy

Rule 172 has been amended to require that the court’s order identify with specificity which items shall be expunged or destroyed. *See* discussion *infra*.

Rule 173—Retention of Specific Information in Juvenile Records

This new rule provides for the retention of specific information by the court and juvenile justice agencies.

The information kept by the court must be limited to the information provided in paragraph (B). However, juvenile justice agencies have more latitude in keeping information for the purpose of determining subsequent eligibility in a court program, preparing a pre-sentence report, or for maintaining intelligence and investigative information.

Information retained by juvenile justice agencies is neither open to inspection by the public, nor governed by Rule 160 or § 6308 of the Juvenile Act.

Rule 370—Consent Decree

This amendment clarifies that the agreement is between the Commonwealth and the juvenile. Additionally, the Comment clarifies that a consent decree may be entered at any time prior to the entry of the adjudication of delinquency.

Rule 408—Ruling on Offenses

It was brought to the Committee’s attention that paragraph (B) was confusing because of its use of the term “all.” The modification clarifies the intent of the rule and provides new language to read that if the court finds that the juvenile committed none of the alleged delinquent acts, the court shall dismiss the petition and release the juvenile.

If the court finds, for example, that the juvenile committed one of the twelve alleged delinquent acts, the petition cannot be dismissed.

Rule 409—Adjudication of Delinquency

Paragraph (A)(1)(b) and its Comment was modified to ensure the court orders that records, fingerprints, or photographs be destroyed or expunged.

[Pa.B. Doc. No. 14-1721. Filed for public inspection August 15, 2014, 9:00 a.m.]

Title 255—LOCAL COURT RULES

BUCKS COUNTY

Community Accountability Program; Administrative Order No. 73

Order

And Now, this 28th day of July, 2014, so as to permit the diversion of non-violent criminal matters to a panel of local citizens for consideration of alternative dispositions, it is hereby ordered and directed as follows:

1. Community Accountability Panels shall be chosen from among citizens of the local community.

2. Panel members shall be appointed by order of the Court, and shall meet at regularly scheduled times throughout the year.

3. Individual defendants shall be referred to the panels by the police upon approval by the District Attorney.

4. If the defendant is approved for the program, the Magisterial District Judge shall continue the preliminary hearing or summary proceeding to permit the defendant's participation.

5. To qualify for referral, a defendant must meet the following qualifications:

- A. Be charged with a non-felony offense;
- B. Sign the referral agreement; and
- C. Comply with conditions imposed by Community Accountability Panel.

6. All costs associated with the Community Accountability Panel program shall be borne by the defendant, unless waived by the referring Magisterial District Judge with the agreement of the District Attorney.

7. Upon completion of all conditions imposed by the Community Accountability Panel, and the payment of all costs, the subject complaint or citation shall be dismissed by the Magisterial District Judge, and all records of the charges shall be expunged from the system, except that the District Attorney shall retain a record of the defendant's participation in the program.

8. Should the defendant fail to complete the program, then the preliminary hearing or summary trial will be held before the Magisterial District Judge and the case will proceed through the normal criminal case process.

This Order shall take effect on September 1, 2014.

By the Court

JEFFREY F. FINLEY,
President Judge

[Pa.B. Doc. No. 14-1722. Filed for public inspection August 15, 2014, 9:00 a.m.]

VENANGO COUNTY

Promulgation of Local Rule 1910.12; CIV 856-2014

Order of the Court

And Now, this 29th day of July, 2014, it is hereby *Ordered* and *Decreed* that Venango County Local Rule 1910.12 is rescinded. This rule shall be continuously available for public inspection and copying in the office of the Prothonotary. Upon request and payment of reasonable costs of reproduction and mailing, the Prothonotary shall furnish to any person a copy of any local rule. The said local rule shall become effective thirty (30) days after the date of the publication in the *Pennsylvania Bulletin*.

OLIVER J. LOBAUGH,
President Judge

Local Domestic Relations Rules—Venango County Rule 1910.12. Support. Office Conference. Hearing. Record. Exceptions. Order.

- (a) Rescinded.
- (b) Rescinded.

[Pa.B. Doc. No. 14-1723. Filed for public inspection August 15, 2014, 9:00 a.m.]

VENANGO COUNTY

Promulgation of Local Rule 1910.16-1; 857-2014

Order of the Court

And Now, this 29th day of July, 2014, it is hereby *Ordered* and *Decreed* that Venango County Local Rule 1910.16-1 is rescinded. This rule shall be continuously available for public inspection and copying in the office of the Prothonotary. Upon request and payment of reasonable costs of reproduction and mailing, the Prothonotary shall furnish to any person a copy of any local rule. The said local rule shall become effective thirty (30) days after the date of the publication in the *Pennsylvania Bulletin*.

OLIVER J. LOBAUGH,
President Judge

Local Domestic Relations Rules—Venango County

Rule 1910.16-1. Amount of Support. Support Guidelines.

- (c) Rescinded.

[Pa.B. Doc. No. 14-1724. Filed for public inspection August 15, 2014, 9:00 a.m.]

VENANGO COUNTY

Promulgation of Local Rule 1910.25-1; 858-2014

Order of the Court

And Now, this 29th day of July, 2014, it is hereby *Ordered* and *Decreed* that Venango County Local Rule 1910.25-1 is amended as set forth hereinafter. This rule shall be continuously available for public inspection and copying in the office of the Prothonotary. Upon request and payment of reasonable costs of reproduction and mailing, the Prothonotary shall furnish to any person a copy of any local rule. The said local rule shall become effective thirty (30) days after the date of the publication in the *Pennsylvania Bulletin*.

OLIVER J. LOBAUGH,
President Judge

Local Domestic Relations Rules—Venango County

Rule 1910.25-1. Support. Civil Contempt.

- (c) The Court will, in all cases, upon a petition for civil contempt, provide a prompt hearing in accordance with Pa.R.C.P. 1910.25-1(a).

[Pa.B. Doc. No. 14-1725. Filed for public inspection August 15, 2014, 9:00 a.m.]

VENANGO COUNTY

Promulgation of Local Rule 1915.3; 859-2014

Order of the Court

And Now, this 29th day of July, 2014, it is hereby *Ordered* and *Decreed* that Venango County Local Rule 1915.3 is amended as set forth hereinafter. This rule shall be continuously available for public inspection and copying in the office of the Prothonotary. Upon request and payment of reasonable costs of reproduction and mailing, the Prothonotary shall furnish to any person a copy of

any local rule. The said local rule shall become effective thirty (30) days after the date of the publication in the *Pennsylvania Bulletin*.

OLIVER J. LOBAUGH,
President Judge

**Local Domestic Relations Rules—Venango County
Rule 1915.3. Commencement of Action. Complaint.
Order.**

Each complaint for custody or petition to modify custody shall contain the following order:

_____ ,)	In the Court of Common Pleas of
Plaintiff)	Venango County, Pennsylvania
v.)	Civil Action - Law
_____ ,)	
Defendant)	Civ. No. - 20_____

ORDER OF COURT

You, _____, have been sued in Court to (OBTAIN) (MODIFY) (shared legal custody) (sole legal custody) (partial physical custody) (primary physical custody) (shared physical custody) (sole physical custody) (supervised physical custody) of the following children:

_____, Esquire, is appointed conciliator for the purpose of conducting a conference with respect to the issues raised in the petition. The conciliator shall conduct such a conference and shall report to the Court as to whether or not the issues raised in the Petition are capable of resolution by agreement between the parties. The conciliator shall confer with the parties and make every effort to achieve negotiated resolutions of the issues raised in the Petition. No testimony will be taken at the conciliation conference. The parties should bring with them any relevant expert reports. If no such resolution can be achieved, the conciliator shall so report to the Court. He/she shall also submit an interim proposed Order which shall include a date before a judge.

You are ordered to appear for a custody conciliation conference which has been fixed for the _____ day of _____, 20____, at _____ m., at the Lawyer's Conference Room on the Second Floor of the Venango County Courthouse, Franklin, Pennsylvania.

If you fail to appear as provided by this Order, an Order for legal or physical custody may be entered against you or the Court may issue a warrant for your arrest.

You must file with the court a verification regarding any criminal record or abuse history regarding you and anyone living in your household on or before the initial in-person contact with the court (including, but not limited to, a conference with a conference officer or judge or conciliation), but not later than 30 days after service of the complaint or petition, whichever first occurs. These forms are available at the Prothonotary's Office on the First Floor of the Venango County Courthouse, Franklin, Pennsylvania.

All parties are directed to attend the court-approved seminar "Venango County Co-Parenting Cooperative." Each party is directed to contact LeGoullon Counseling Services at (814) 657-2067 or legoulloncounselingservices@yahoo.com to schedule a date and time for that party to attend the seminar and make payment arrangements.

No party may make a change in the residence of any child which significantly impairs the ability of the other party to exercise custodial rights without first complying

with all of the applicable provisions of 23 Pa.C.S. § 5337 and Pa.R.C.P. No. 1915.17 regarding relocation.

YOU SHOULD TAKE THIS PAPER TO YOUR LAWYER AT ONCE. IF YOU DO NOT HAVE A LAWYER OR CANNOT AFFORD ONE, GO TO OR TELEPHONE THE OFFICE SET FORTH BELOW TO FIND OUT WHERE YOU CAN GET LEGAL HELP.

NORTHWESTERN LEGAL SERVICES
1001 State Street
700 Renaissance Centre
Erie, Pennsylvania 16501-1833
Telephone: (800) 665-6957

AMERICANS WITH DISABILITIES ACT OF 1990

The Court of Common Pleas of Venango County is required by law to comply with the Americans with Disabilities Act of 1990. For information about accessible facilities and reasonable accommodations available to disabled individuals having business before the Court, please contact the Court Administrator's Office at (814) 432-9610. All arrangements must be made at least 72 hours prior to any hearing or business before the Court. You must attend the scheduled conference or hearing.

NOTICE TO INCARCERATED PARTIES AND PARTIES WHO DESIRE TO OBTAIN THE TESTIMONY OF AN INCARCERATED INDIVIDUAL

An incarcerated individual has a right to apply to the court for a writ of habeas corpus ad testificandum to enable him or her to participate in a hearing in this matter. Any party who desires that an incarcerated individual testify at the hearing in this matter also has a right to apply to the court for a writ of habeas corpus ad testificandum to enable the incarcerated person to testify.

BY THE COURT,

Date: _____

[Pa.B. Doc. No. 14-1726. Filed for public inspection August 15, 2014, 9:00 a.m.]

VENANGO COUNTY

Promulgation of Local Rule 1915.3A; 860-2014

Order of the Court

And Now, this 29th day of July, 2014, it is hereby Ordered and Decreed that Venango County Local Rule 1915.3A is amended as set forth hereinafter. This rule shall be continuously available for public inspection and copying in the office of the Prothonotary. Upon request and payment of reasonable costs of reproduction and mailing, the Prothonotary shall furnish to any person a copy of any local rule. The said local rule shall become effective thirty (30) days after the date of the publication in the *Pennsylvania Bulletin*.

OLIVER J. LOBAUGH,
President Judge

**Local Domestic Relations Rules—Venango County
Rule 1915.3A. Custody Seminar.**

(a) When any party files a divorce complaint containing a count for custody, or a complaint for custody, or any other court papers seeking to initiate or reinstate any proceeding to modify, terminate or otherwise affect contact between children and parties, the moving party shall

deliver a true and correct copy of the complaint or other court paper initiating the custody action to LeGoullon Counseling Services, 1243 Liberty Street, Suite 205, Franklin, PA 16323.

(b) All parties to an action to obtain or modify a final order of court for any form of legal or physical custody must attend the court-approved seminar "Venango County Co-Parenting Cooperative" if they have not already done so. The moving party shall forward a seminar brochure to each party or that party's attorney at the time of service of the complaint or petition. Each party to a custody action shall only be required to attend the seminar one (1) time, unless otherwise ordered by the court. Those parties required to attend the seminar shall include any parent, grandparent, great-grandparent or third party to a custody action. Prior attendance at the court-sponsored seminar "Helping Families Cope with Divorce and Custody" shall not excuse attendance at this seminar.

(c) Each party shall receive a certificate upon completion of his or her attendance at the seminar. Each party shall file that certificate of record as evidence of his or her attendance and completion of the seminar.

(d) Each party may attend the seminar with any opposing party in a custody action. No party shall be compelled to attend the seminar with an opposing party in cases where any party, or a child of any party, is or has been the subject of domestic violence or child abuse allegedly perpetrated by the opposing party at any time within the past twenty-four (24) months. In such cases, appropriate arrangements for separate sessions for the seminar shall be made by the facilitator.

(e) All requests to waive attendance at the seminar will require an order of court upon appropriate motion. Waivers will be granted only in exigent circumstances.

(f) All parties who are required to attend the seminar shall complete the seminar within forty-five (45) days after commencement of an action to obtain or modify a final order of court for any form of legal or physical custody.

(g) All parties who are required to attend the seminar shall pay all fees required.

(h) Under exigent circumstances, the court will consider waiver, reduction or assessment of fees to the other party for those unable to pay the fee to attend the seminar. Any such request must be presented to the court by appropriate motion, and must be accompanied by a verified affidavit of indigence or other proof of economic hardship in accordance with Pa.R.C.P. No. 240 and 1920.62.

(i) Absent an order of court, no party shall be permitted to participate in the seminar until timely payment of the fee.

[Pa.B. Doc. No. 14-1727. Filed for public inspection August 15, 2014, 9:00 a.m.]

VENANGO COUNTY

Promulgation of Local Rule 1915.4A; 861-2014

Order of the Court

And Now, this 29th day of July, 2014, it is hereby *Ordered* and *Decreed* that Venango County Local Rule 1915.4A is amended as set forth hereinafter. This rule shall be continuously available for public inspection and

copying in the office of the Prothonotary. Upon request and payment of reasonable costs of reproduction and mailing, the Prothonotary shall furnish to any person a copy of any local rule. The said local rule shall become effective thirty (30) days after the date of the publication in the *Pennsylvania Bulletin*.

OLIVER J. LOBAUGH,
President Judge

Local Domestic Relations Rules—Venango County

Rule 1915.4A. Procedure in All Custody Cases.

(a) Custody Conciliation Conferences

(1) Upon commencement of an action for any form of legal or physical custody, or an action seeking to initiate or reinstate any proceeding to modify, terminate or otherwise affect contact between children and parties, a custody conciliation conference shall be scheduled. A conciliator will be appointed by the court from a list of qualified conciliators.

(2) The conciliator shall make every effort to conduct a custody conciliation conference within forty-five (45) days after his or her appointment. All parties and their attorneys shall attend the custody conciliation conference. The conciliator shall review the court file before the custody conciliation conference in order to ensure that all pleadings and documents have been properly filed by all parties, including a verification regarding any criminal record or abuse history. If a party has not filed the verification, then the conciliator shall have that party complete the verification before commencing the custody conciliation conference, and the conciliator shall ensure that the verification is filed of record after the conference.

(3) At the custody conciliation conference, the conciliator shall meet with the parties, their attorneys, or both to discuss the issues and use their best efforts to reach a settlement based on the best interests and welfare of the children. If any component of the case is settled, the conciliator shall file a written report with the court setting forth the agreement and the proposed court order to be entered in the case. If any component of the case is not settled, the conciliator shall file a written report with the court that recites the following:

(a) the parties and attorneys that attended the custody conciliation conference;

(b) the results of the conference;

(c) recommendations for an interim court order, if any, with a proposed court order to be entered in the case;

(d) recommendations whether counsel for the child should be appointed;

(e) and any other information that may help the court as the court addresses the matter in further proceedings under this rule.

The proposed court order submitted by the custody conciliator shall include terms for the court to designate a custody mediator to be appointed in the case.

(4) No party shall be compelled to participate in custody mediation in cases where any party, or a child of any party, is or has been the subject of domestic violence or child abuse allegedly perpetrated by the opposing party at any time within the past twenty-four (24) months. Therefore, at the conclusion of the custody conciliation conference, the conciliator shall have each party complete an eligibility for mediation form, which shall be filed with the conciliator's written report. If custody mediation cannot be scheduled, the case shall be scheduled for a

custody pre-trial conference, and the conciliator shall include terms in the proposed court order to schedule that conference.

(b) *Custody Mediation*

(1) If the parties are unable to reach an agreement at the custody conciliation conference, then all of the parties shall thereafter attend a custody mediation conference. Custody mediation shall occur in accordance with Pa.R.C.P. No. 1940.1 et seq., as amended.

(2) At the beginning of each custody mediation conference, the mediator shall conduct a brief orientation session in order to educate all of the parties relative to custody mediation, and the benefits of mediation in resolving custody disputes. An orientation session may also be included as part of the court-approved seminar "Venango County Co-Parenting Cooperative."

(3) No party shall be compelled to participate in custody mediation in cases where any party, or a child of any party, is or has been the subject of domestic violence or child abuse allegedly perpetrated by the opposing party at any time within the past twenty-four (24) months.

(4) Each custody mediator shall be appointed by the court from a list of qualified mediators, who have been specially trained in mediation. The fee for mediation shall be \$400.00, which shall be equally divided between the parties. The fee shall be paid within twenty (20) days after the mediation is scheduled, and shall be paid no later than the date of the mediation. In the event a party has not paid his or her share of the mediation fee by the date of the mediation, the mediator, in his or her sole discretion, may proceed with the mediation, and thereafter refer the issue of payment to the court for further proceedings in order to collect the fee.

(5) Under exigent circumstances, the court will consider waiver, reduction or assessment of fees to the other party for those unable to pay. Any such request must be presented by appropriate motion filed with the court, and must be accompanied by a verified affidavit of indigence or other proof of economic hardship in accordance with Pa.R.C.P. No. 240 and 1920.62.

(6) A custody mediation shall be scheduled for a time not to exceed three (3) hours. Prior to the custody mediation, each party shall submit to the mediator a proposed parenting plan substantially in the form set forth in Section 5331 of the Domestic Relations Code (23 Pa.C.S. § 5331), as amended. Each custody mediation shall be closed, and the contents of the custody mediation shall be confidential. No one except the parties shall be permitted to participate in the custody mediation. It is the intent of the court to conduct custody mediation in all cases without counsel for any party present, unless allowed or authorized by order of court. If all of the parties provide written consents, the mediator may, but shall not be required to, disclose the events and discussions that occurred at the custody mediation with counsel or others. Disclosure by the mediator of anything learned during the custody mediation process shall be controlled by Section 5949 of the Judicial Code (42 Pa.C.S. § 5949).

(7) At the conclusion of the custody mediation, if an agreement is reached, the mediator shall write a memorandum of understanding ("the memorandum"). The memorandum shall not be legally binding upon the parties. Should any of the parties have counsel, they shall be referred to counsel to reduce the memorandum to a court order. Each party and counsel shall review the memorandum, and shall have the right to reject the terms with notice to the mediator and all parties and

counsel about the rejection within twenty (20) days of the date of the custody mediation, and that party shall file a praecipe for a custody pre-trial conference. If the memorandum is reduced to a court order, the order shall be prepared by one of the parties and counsel, and reviewed and executed by all parties and counsel before it is submitted for entry as a court order. Should none of the parties have counsel, after the mediation, they shall be referred to the District Court Administrator, who shall provide each party with the name of an attorney, who shall reduce the memorandum to a mutually agreeable court order for a flat fee as determined by the court. An attorney appointed under this provision shall be responsible for no other action on behalf of the party and need not enter an appearance with the court.

(8) In the event no resolution results from custody mediation, the parties may consent to continue to mediate with the same mediator. Up to an additional three (3) hours of mediation may be scheduled for a fee of \$100.00 per hour to be equally divided between the parties. Absent consent to an alternative arrangement or court order, each party shall be responsible for his or her own fee. If at any time during these additional three (3) hours of custody mediation the parties are able to reach a memorandum, which, in turn, is reduced to a court order, or should the mediator in his or her sole discretion declare that the custody mediation is at a permanent and irrevocable impasse and should be terminated, the mediator shall refund to each party a prorated amount for each full hour not used during the mediation.

(9) In all cases where an agreement is reached, a memorandum shall be reduced to a court order and submitted to the court for entry as a court order within twenty (20) days of the date of the custody mediation.

(10) In all cases, the mediator shall file a brief report that sets forth the date of the mediation and whether an agreement was reached by memorandum. No details of the mediation shall be included in the report.

(c) *Custody Pre-Trial Conference*

(1) In the event that no resolution results from custody mediation, or a court order is not submitted to the court for entry as a court order within the designated time frame, the case shall proceed to a custody pre-trial conference with the court in accordance with Pa.R.C.P. No. 1915.4-4. The moving party shall file a praecipe for pre-trial conference. A pre-trial statement shall be filed with the court by each party at least five (5) days before the custody pre-trial conference. At the custody pre-trial conference, the court will confer with the parties and their attorneys in order to set a hearing date(s) and take such steps as are necessary to prepare the case for trial. Matters to be addressed at the conference shall include the number of days for the hearing, witness lists, expert reports, determination whether court-appointed experts are required, an interim custody arrangement pending final hearing, appointment of an attorney to represent the interests of the child, and any other matters deemed appropriate by the court.

(2) With the pre-trial statement, all parties shall also file a proposed parenting plan substantially in the form set forth in Section 5331 of the Domestic Relations Code (23 Pa.C.S. § 5331).

[Pa.B. Doc. No. 14-1728. Filed for public inspection August 15, 2014, 9:00 a.m.]

VENANGO COUNTY

Promulgation of Local Rule 1915.11; 862-2014

Order of the Court

And Now, this 29th day of July, 2014, it is hereby Ordered and Decreed that Venango County Local Rule 1915.11 is amended as set forth hereinafter. This rule shall be continuously available for public inspection and copying in the office of the Prothonotary. Upon request and payment of reasonable costs of reproduction and mailing, the Prothonotary shall furnish to any person a copy of any local rule. The said local rule shall become effective thirty (30) days after the date of the publication in the *Pennsylvania Bulletin*.

OLIVER J. LOBAUGH,
President Judge

**Local Domestic Relations Rules—Venango County
Rule 1915.11. Custody. Appointment of Attorney for Child.**

(d) Attorneys representing parents in custody litigation are encouraged not to speak directly with a child who is the subject of custody proceedings except under any of the following conditions:

- (1) Both parents are present;
- (2) Opposing counsel is present;
- (3) An attorney for the child has been appointed by the court and consents to the interview; or
- (4) The attorney for the party is specifically authorized by the court beforehand to speak with the child.

[Pa.B. Doc. No. 14-1729. Filed for public inspection August 15, 2014, 9:00 a.m.]

VENANGO COUNTY

Promulgation of Local Rule 1920.16; 865-2014

Order of the Court

And Now, this 29th day of July, 2014, it is hereby Ordered and Decreed that Venango County Local Rule 1920.16 is amended as set forth hereinafter. This rule shall be continuously available for public inspection and copying in the office of the Prothonotary. Upon request and payment of reasonable costs of reproduction and mailing, the Prothonotary shall furnish to any person a copy of any local rule. The said local rule shall become effective thirty (30) days after the date of the publication in the *Pennsylvania Bulletin*.

OLIVER J. LOBAUGH,
President Judge

**Local Domestic Relations Rules—Venango County
Rule 1920.16. Equitable Distribution. Severance of Actions and Claims.**

(b) The court will, in all cases where bifurcation is requested by a party, conduct a hearing at which both parties should be present.

(c) In all cases where bifurcation is requested by consent, the court will require testimony from the parties regarding the impact of a divorce at the time of hearing which shall include but not necessarily be limited to inability to file joint tax return; health insurance; beneficiary designations on life insurance policies, pensions,

and retirement benefits; rights of inheritance; intestate succession; effect on existing wills, powers of attorney, and advance health care directives; exemptions from the claims of creditors; and jointly owned real and personal property.

(d) Rescinded.

[Pa.B. Doc. No. 14-1730. Filed for public inspection August 15, 2014, 9:00 a.m.]

VENANGO COUNTY

Promulgation of Local Rule 1920.74; 864-2014

Order of the Court

And Now, this 29th day of July, 2014, it is hereby Ordered and Decreed that Venango County Local Rule 1920.74 is amended as set forth hereinafter. This rule shall be continuously available for public inspection and copying in the office of the Prothonotary. Upon request and payment of reasonable costs of reproduction and mailing, the Prothonotary shall furnish to any person a copy of any local rule. The said local rule shall become effective thirty (30) days after the date of the publication in the *Pennsylvania Bulletin*.

OLIVER J. LOBAUGH,
President Judge

**Local Domestic Relations Rules—Venango County
Rule 1920.74. Form of Motion for the Appointment of Divorce Master. Order.**

(a) The motion for appointment of a Divorce Master shall be substantially in the following form:

_____ : IN THE COURT OF COMMON
Plaintiff, : PLEAS OF VENANGO
 : COUNTY, PENNSYLVANIA
vs. :
 :
 :
 : Civ. No. _____ - _____
Defendant :

MOTION FOR APPOINTMENT OF DIVORCE MASTER

AND NOW comes the _____, by and through his undersigned counsel, and pursuant to Venango County Local Rule 1920.51 files his Motion for Appointment of Divorce Master stating in furtherance thereof as follows:

- 1. Counsel for the Plaintiff is: _____
- 2. Counsel for the Defendant is: _____
- 3. The Complaint was filed by the Plaintiff on _____
- 4. The Complaint was served on the Defendant on _____
- 5. The statutory ground(s) asserted (are)(is) Section _____ of the Divorce Code or ___ annulment.
 - a. If 3301(c), affidavit of consent filed by Plaintiff _____ by Defendant _____.
 - b. If 3301(d), affidavit of separation filed by (Plaintiff) (Defendant) on _____ Counter-Affidavit, if any, filed on _____.
- 6. Matters at Issue:
 - _____ Dissolution of Marriage
 - _____ Equitable distribution of marital property
 - _____ Allocation of marital indebtedness

- ___ Exclusive Possession of Marital Residence
- ___ Alimony pendente litem
- ___ Counsel fees and/or expenses of litigation
- ___ Court costs
- ___ Bifurcation
- ___ Alimony

7. Discovery ___ is ___ is not complete as to the claim(s) for which the appointment of a Master is requested.

8. I hereby certify that Pa.R.C.P. 1920.46 is (___ applicable) (___ not applicable).

9. I hereby certify that Pa.R.C.P. 1920.31(1) is (___ applicable) (___ not applicable) and the income and expense statement have been filed as follows:
Plaintiff _____ (date) Defendant _____ (date).

10. I hereby certify that Pa.R.C.P. 1920.33(a) is (___ applicable) (___ not applicable) and the inventories have been filed as follows:
Plaintiff _____ (date) Defendant _____ (date).

11. The hearing is expected to take _____ hours.

12. I hereby certify that _____ has deposited the proper fee for the appointment of the Divorce Master with the Venango County Prothonotary on _____.

WHEREFORE, the _____ respectfully requests that this Honorable Court grant the instant prayer for the appointment of a Divorce Master by approving and entering the proposed Order attached hereto.

Dated: _____ Attorney For: _____

(b) The Order Appointing Master shall be in substantially the following form:

_____ : IN THE COURT OF COMMON
 Plaintiff, : PLEAS OF VENANGO
 : COUNTY, PENNSYLVANIA
 vs. :
 :
 : Civ. No. _____ - _____
 Defendant :

ORDER APPOINTING DIVORCE MASTER

AND NOW, this _____ day of _____, 2____, the Court has received the Motion for Appointment of Divorce Master filed by the _____ in the above-captioned matter.

Richard Winkler is hereby appointed Divorce Master in this matter.

(1) The master will schedule a preliminary conference at the earliest convenient time, but no later than sixty (60) days from the date of this Order. Parties and their counsel shall attend the conference and attempt to resolve all outstanding issues without further litigation.

(2) Each party shall file and serve upon the other party a pre-trial statement in accordance with Pa.R.C.P. 1920.33(b) and deliver a copy to the Divorce Master prior to the preliminary conference.

The preliminary conference with the Divorce Master shall not proceed until each party has filed their inventory and pre-trial statement.

BY THE COURT,

_____, J.

[Pa.B. Doc. No. 14-1731. Filed for public inspection August 15, 2014, 9:00 a.m.]

VENANGO COUNTY

Promulgation of Local Rule 1930.4; 863-2014

Order of the Court

And Now, this 29th day of July, 2014, it is hereby Ordered and Decreed that Venango County Local Rule 1930.4 is adopted. This rule shall be continuously available for public inspection and copying in the office of the Prothonotary. Upon request and payment of reasonable costs of reproduction and mailing, the Prothonotary shall furnish to any person a copy of any local rule. The said local rule shall become effective thirty (30) days after the date of the publication in the Pennsylvania Bulletin.

OLIVER J. LOBAUGH,
President Judge

Local Domestic Relations Rules—Venango County Rule 1930.4. Service of Original Process in Domestic Relations Matters.

(a) All counsel should take notice of the note following Pa.R.C.P. 1930.4: Service of Original Process in Domestic Relations Matters, which states that service upon an incarcerated person in a domestic relations action must also include notice of any hearing in such action, and specific notice of the incarcerated individual's right to apply to the Court for a Writ of Habeas Corpus ad Testificandum to enable him or her to participate in the hearing.

(b) The notice shall be in substantially the following form:

(Caption)

NOTICE TO INCARCERATED PARTIES

Plaintiff and Defendant are directed to appear on the _____ day of _____, 20__ at __.m. in Courtroom _____ Venango County Courthouse, Franklin, Pennsylvania for a hearing. If you are incarcerated, you are also hereby notified of your right to apply to the Court for a Writ of Habeas Corpus ad Testificandum enabling you to participate in the hearing. Any party who desires that an incarcerated individual testify at the hearing in this matter also has a right to apply to the Court for a Writ of Habeas Corpus ad Testificandum to enable the incarcerated person to testify.

[Pa.B. Doc. No. 14-1732. Filed for public inspection August 15, 2014, 9:00 a.m.]