

Subpart N. JUVENILE COURT JUDGE’S COMMISSION

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CHAPTER 200. JUVENILE COURT JUDGE’S COMMISSION

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Source

The provisions of this Chapter 200 adopted and renumbered from 237 Pa. Code Chapters 101, 201 and 301, August 16, 2002, effective August 17, 2002, 32 Pa.B. 4037, unless otherwise noted.

**Subchapter A. STANDARDS GOVERNING THE USE OF SECURE
DETENTION UNDER THE JUVENILE ACT**

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Source

The provisions of this Subchapter A amended April 13, 2007, effective April 14, 2007, 37 PaB. 1651. Immediately preceding text appear at serial pages (318919) to (319920) and (290295) to (290299).

Preamble

The purpose of Pennsylvania's juvenile justice system is to provide programs of supervision, care and rehabilitation which are consistent with the protection of the public interest and which provide balanced attention to the protection of the community, the imposition of accountability for offenses committed and the development of competencies to enable juveniles who come within the jurisdiction of the court to become responsible and productive members of the community.

Secure detention services must be understood within the context of the services available within the juvenile justice system, and within the broader context of the purpose of the system, and of the juvenile justice process. A juvenile admitted to a juvenile detention center is provided access to a wide range of services, custody, supervision and assessments.

The "Standards Governing the Use of Secure Detention Under The Juvenile Act" adopted by the Juvenile Court Judges' Commission were developed with an understanding that overcrowding in juvenile detention centers presents danger to both residents and staff and can severely disrupt programs and services. Consequently, juvenile court judges and chief juvenile probation officers should take a leadership role in advocating for adequate juvenile detention services and alternatives, in monitoring detention center populations at the local level, and in developing strategies to be undertaken as facilities approach capacity.

These standards were also developed on the premise that decisions regarding admissions to secure detention facilities must be based on a commitment to utilize the most appropriate level of care consistent with the circumstances of the individual case. When the admission of a juvenile to a secure detention facility is being considered by a judge, master or juvenile probation officer, preference should be given to nonsecure alternatives which could reduce the risk of flight or danger to the juvenile or community.

§ 200.1. Scope.

(a) These standards shall be applied in determining whether a juvenile who is alleged to be or has been found to be delinquent may be detained. A juvenile who is alleged to be or has been found to be a dependent child may not be detained in a secure detention facility unless the child is also alleged to be or has been found to be delinquent.

(b) Even though eligibility criteria may indicate that a particular juvenile may be detained, detention is not mandatory. In every situation in which secure detention is to be considered, forms of control short of secure detention which could substantially reduce the risk of flight or danger to the juvenile or the community shall be given preference.

(c) Preadjudication detention may never be imposed as a means of punishment or to apply sanctions.

(d) Secure detention is not to be used when a juvenile alleged to be delinquent cannot be released solely because there is no parent, guardian or custodian able to assume responsibility or adequately supervise the juvenile.

§ 200.2. Statement of reasons requirement.

(a) If secure detention is ordered or authorized, except as provided in subsections (b) and (c), whether at intake or at a detention or other hearing before a

juvenile court judge or juvenile court master, a contemporaneous written statement of reasons and facts shall accompany the detention decision specifying the following:

(1) There is a reasonable basis to believe that the juvenile has committed the act for which he is being detained—in the case of judicial authorities, that probable cause exists—and that the juvenile is not excluded from the jurisdiction of juvenile court by age or another reason.

(2) The juvenile's detention is permitted under this subchapter.

(3) The alternatives to secure detention which were considered and rejected.

(4) The reason or reasons why secure detention is required and alternatives are not appropriate. Separate reasons need not be given for each alternative considered.

(b) If secure detention is ordered after the juvenile is found to have committed a delinquent act but prior to the court's determination that residential placement will be ordered at disposition, the court shall indicate on the record or in a court order why secure detention is required and alternatives are not appropriate. Separate reasons need not be given for each alternative considered.

(c) Once the court has determined that residential placement will be ordered or continued, if previously ordered, no statement of reasons is required regarding the use of secure detention pending placement.

§ 200.3. Detention required to protect the person or property of others or of the juvenile.

A juvenile may not be detained in secure detention under 42 Pa.C.S. §§ 6325, 6326 and 6331 (relating to detention of child; release or delivery to court; and release from detention or commencement of proceedings) for the purpose of protecting the person or property of others or of the juvenile unless one of the following exists:

(1) The juvenile is alleged to be delinquent on the basis of acts which would constitute the commission of, conspiracy, solicitation or an attempt to commit any of the following crimes:

(i) Criminal homicide, 18 Pa.C.S. § 2502, § 2503 or § 2504 (relating to murder; voluntary manslaughter or involuntary manslaughter).

(ii) Rape, 18 Pa.C.S. § 3121 (relating to rape).

(iii) Robbery, 18 Pa.C.S. § 3701 (relating to robbery).

(iv) Robbery of motor vehicle, 18 Pa.C.S. § 3702 (relating to robbery of motor vehicle).

(v) Aggravated assault, 18 Pa.C.S. § 2702 (relating to aggravated assault).

(vi) Statutory sexual assault, 18 Pa.C.S. § 3122.1 (relating to statutory sexual assault).

(vii) Involuntary deviate sexual intercourse, 18 Pa.C.S. § 3123 (relating to involuntary deviate sexual intercourse).

(viii) Sexual assault, 18 Pa.C.S. § 3124.1 (relating to sexual assault).

(ix) Aggravated indecent assault, 18 Pa.C.S. § 3125 (relating to aggravated indecent assault).

(x) Kidnapping, 18 Pa.C.S. § 2901 (relating to kidnapping).

(xi) Arson, 18 Pa.C.S. § 3301 (relating to arson and related offenses).

(xii) Burglary, 18 Pa.C.S. § 3502 (relating to burglary) involving a structure adapted for overnight accommodation.

- (xiii) Terroristic threats, 18 Pa.C.S. § 2706 (relating to terroristic threats).
- (xiv) Stalking, 18 Pa.C.S. § 2709.1 (relating to stalking).
- (xv) Causing or risking catastrophe, 18 Pa.C.S. § 3302 (relating to causing or risking catastrophe).
- (xvi) Riot, 18 Pa.C.S. § 5501 (relating to riot).
- (xvii) Felonious violations of The Controlled Substance, Drug, Device and Cosmetic Act (35 P. S. §§ 780-101—780-143).
- (xviii) Felonious intimidation of witnesses or victims, 18 Pa.C.S. § 4952 (relating to intimidation of witnesses or victims).
- (xix) Felonious retaliation against witness, victim or party, 18 Pa.C.S. § 4953 (relating to retaliation against witness, victim or party).

(2) The juvenile is alleged to be delinquent on the basis of an offense which involved the use or possession of a firearm or explosives, or an offense—other than mere possession—which involved the use or possession of a deadly weapon—other than a firearm or explosives—as defined in 18 Pa.C.S. § 2301 (relating to definitions).

(3) The juvenile is alleged to be delinquent on the basis of an offense which is classified as a felony and one of the following exists:

(i) The juvenile is currently on probation, being supervised under a consent decree, or otherwise under the supervision of the court following an adjudication of delinquency.

(ii) The juvenile has been found to be delinquent within the preceding 18 months.

(4) The juvenile is alleged to be delinquent and is in violation of conditions of house arrest, in-home detention, electronic monitoring, shelter care or other nonsecure placement, ordered or authorized as an alternative to secure detention.

(5) The juvenile is on probation or is otherwise under the supervision of a court following an adjudication of delinquency, based on a felony, and is alleged to have committed a delinquent act or to have twice violated technical conditions of probation or other postadjudication supervision.

(6) The juvenile or juvenile's attorney has voluntarily and in writing requested placement in secure detention for the protection of the juvenile, in which case immediate release shall occur upon the request of the juvenile or attorney.

Cross References

This section cited in 37 Pa. Code § 200.6 (relating to postadjudication detention pending disposition); and § 200.7 (relating to postdisposition detention awaiting placement).

§ 200.4. Detention required because the juvenile may abscond or be removed from the jurisdiction of the court.

A juvenile may not be detained in secure detention under 42 Pa.C.S. §§ 6325, 6326 and 6331 (relating to detention of child; release or delivery to court; and release from detention or commencement of proceedings) because the juvenile may abscond or be removed from the jurisdiction of the court unless one of the following occurs:

(1) The juvenile is an absconder from an institution or other placement to which the juvenile was committed as a result of a previous adjudication of delinquency.

(2) The juvenile has willfully failed to appear at the hearing on the petition or other hearing after having been served with a court order or summons to appear.

(3) The juvenile has a recent demonstrable record of willful failure to appear at previous juvenile proceedings.

(4) The juvenile has been verified to be a fugitive from another jurisdiction, an official from which has requested that the juvenile be detained.

(5) The juvenile absconded from secure detention, shelter care, in-home detention, house arrest or other nonsecure placement, or while subject to electronic monitoring, ordered or authorized pending a court hearing or placement.

(6) The juvenile presents extraordinary circumstances requiring secure detention to prevent the juvenile from absconding. The circumstances may include, but are not limited to, the juvenile's age, character, mental condition, ties to the community, the nature of the juvenile's family relationships, drug or alcohol addiction or substance abuse.

Cross References

This section cited in 37 Pa. Code § 200.4 (relating to detention required because the juvenile may abscond or be removed from the jurisdiction of the court); and 37 Pa. Code § 200.7 (relating to post-disposition detention awaiting placement).

§ 200.5. Detention required because the juvenile has no parent, guardian or custodian.

A juvenile may not be detained in secure detention under 42 Pa.C.S. §§ 6325, 6326 and 6331 (relating to detention of child; release or delivery to court; and release from detention or commencement of proceedings) solely because the juvenile has no parent, guardian, custodian or other person able to provide supervision and care and capable of returning the juvenile to the court when required.

§ 200.6. Postadjudication detention pending disposition.

A juvenile whom the court has found to have committed the act by reason of which the juvenile was alleged to be delinquent or whom the court has found to be delinquent may not be held in secure detention pending disposition unless one of the following exists:

(1) The adjudication or finding was based on an offense for which detention was or could have been authorized or ordered under § 200.3 (relating to detention required to protect the person or property of others or of the juvenile).

(2) The juvenile was initially detained, was eligible for detention, or, based on more recent information, would now be eligible for detention under § 200.4 (relating to detention required because the juvenile may abscond or be removed from the jurisdiction of the court) and the court determines detention to be required.

(3) The court has determined that placement of the juvenile at disposition is probable and continued detention is required prior to disposition based upon consideration of the following factors:

(i) The nature of the substantiated offense.

- (ii) The juvenile's employment and student status.
- (iii) The nature of the juvenile's family relationships.
- (iv) The juvenile's past and present residences.
- (v) The juvenile's age, character, mental condition, previous juvenile record, and drug or alcohol addiction or substance abuse.
- (vi) If the juvenile has previously been released pending a court proceeding, whether the juvenile appeared as required.
- (vii) Other facts relevant to whether the juvenile has strong ties with the community or is likely to flee the jurisdiction.

Cross References

This section cited in § 200.7 (relating to postdisposition detention awaiting placement); and § 200.8 (relating to detention pending or subsequent to a dispositional review proceeding).

§ 200.7. Postdisposition detention awaiting placement.

A delinquent juvenile whom the court has committed to an institution or other placement, who was otherwise ordered removed from his home at disposition may not be held in secure detention pending transfer to the placement unless one of the following exists:

- (1) The juvenile was found to be delinquent on the basis of an offense for which detention would be permitted under § 200.3 (relating to detention required to protect the person or property of others or of the juvenile).
- (2) The juvenile was initially detained, was eligible for detention, or based on more recent information, would now be eligible for detention, under § 200.4 (relating to detention required because the juvenile may abscond or be removed from the jurisdiction of the court).
- (3) The juvenile is awaiting placement in a Youth Development Center secure unit or other secure residential treatment program.
- (4) The juvenile is awaiting placement and the court has determined that secure detention is required pending transfer to the placement based upon consideration of the factors delineated in § 200.6(3) (relating to postadjudication detention pending disposition).

§ 200.8. Detention pending or subsequent to a dispositional review proceeding.

A juvenile may not be detained in secure detention pending or subsequent to a dispositional review proceeding unless one of the following occurs:

- (1) The juvenile is in placement or is awaiting transfer to a Youth Development Center secure unit or other secure residential treatment program.
- (2) The juvenile was returned from placement for failure to adjust.
- (3) Secure detention is otherwise required based upon consideration of the factors delineated in § 200.6(3) (relating to postadjudication detention pending disposition).

§ 200.9. Authorization for detention in cases of extraordinary and exceptional circumstances.

(a) A juvenile may be detained in secure detention even if this subchapter does not otherwise authorize detention if the following are met:

- (1) The facts present extraordinary and exceptional circumstances which require the use of secure detention.

(2) A statement of reasons accompanying the detention includes an explanation of why an exception was warranted and why nonsecure options were rejected.

(b) Detention under this section may not be authorized routinely or because nonsecure alternatives do not exist in adequate numbers, but only in the exceptional and extraordinary case.

(c) Secure detention is not to be used when a juvenile alleged to be delinquent cannot be released solely because there is no parent, guardian or custodian able to assume responsibility or adequately supervise the juvenile.

Subchapter B. STANDARDS GOVERNING HEARINGS AND ADMINISTRATIVE REVIEWS FOR JUVENILES HELD IN SECURE DETENTION

Sec.

200.101. Preadjudication detention. (See Pa.R.J.C.P. 242(D), 391 and 404(A)).

200.102. Postadjudication/predisposition detention. (See Pa.R.J.C.P. 510).

200.103. Postdisposition/preplacement detention.

200.104. Detention pending a dispositional review proceeding for failure to adjust in placement. (See Pa.R.J.C.P. 605 and 610).

200.105. Detention pending a dispositional review proceeding for violation of probation. (See PA.R.J.C.P. 605, 610 and 612).

200.106. Detention subsequent to an order resulting from a dispositional review proceeding, where a specific placement or disposition has been ordered.

200.107. Responsibility of probation officer.

Source

The provisions of this Subchapter B amended April 13, 2007, effective April 14, 2007, 37 Pa.B. 1651. Immediately preceding text appears at serial pages (290300) to (290301).

§ 200.101. Preadjudication detention. (See Pa.R.J.C.P. 242(D), 391 and 404(A)).

(a) Within 72 hours of the admission of a juvenile to secure detention, the informal detention hearing shall be held.

(b) If a juvenile remains detained after the hearing, a petition shall be filed with the clerk of courts within 24 hours or the next court business day.

(c) If a juvenile is detained, an adjudication hearing shall be held no later than 10 days after the filing of the petition.

(d) Except as provided in paragraphs (1) and (2), if the adjudicatory hearing is not held or notice of request for transfer is not submitted within the 10-day period, the juvenile shall be released.

(1) A juvenile may be detained for an additional single period not to exceed 10 days when the court determines that the following exist:

(i) Evidence material to the case is unavailable.

(ii) Due diligence to obtain the evidence has been exercised.

(iii) There are reasonable grounds to believe that the evidence will be available at a later date.

(iv) The detention of the juvenile would be warranted.

(2) A juvenile may be detained for successive 10-day intervals if the delay is caused by the juvenile. The court shall state on the record if failure to hold

the hearing resulted from delay caused by the juvenile. Delay caused by the juvenile includes, but is not be limited to, one or more of the following:

- (i) Delay caused by the unavailability of the juvenile or the juvenile's attorney.
- (ii) Delay caused by any continuance granted at the request of the juvenile or the juvenile's attorney.
- (iii) Delay caused by the unavailability of a witness resulting from conduct by or on behalf of the juvenile.

§ 200.102. Postadjudication/predisposition detention. (See Pa.R.J.C.P. 510).

(a) Within 20 days of a finding by the court that a juvenile has committed a delinquent act, a dispositional hearing or a hearing to determine the need for continued secure detention shall be held.

(b) Within 20 days of this hearing, if the dispositional hearing has not been held or a final dispositional order entered, a hearing shall be held to review the status of the case and to determine the need for continued secure detention.

(c) Until a disposition or a specific placement is ordered by the court, the court shall hold a hearing by the 20th day from the most recent court proceeding to review the status of the case and to determine the need for continued secure detention.

§ 200.103. Postdisposition/preplacement detention.

(a) At the 10th and 20th days from the most recent court proceeding, the court or designee shall administratively review the status of the case and determine the need for continued secure detention.

(b) Within 30 days of the most recent court proceeding, a hearing shall be held to review the status of the case and to determine the need for continued secure detention.

(c) Subsequent administrative reviews and hearings shall continue to be held pursuant to these time frames until the child is admitted to a dispositional placement or is otherwise released from secure detention.

§ 200.104. Detention pending a dispositional review proceeding for failure to adjust in placement. (See Pa.R.J.C.P. 605 and 610).

(a) Within 72 hours of the admission of a juvenile to secure detention, an informal detention hearing shall be held.

(b) Within 20 days of the most recent court proceeding, or from the date of admission to secure detention if no informal detention hearing was required, the dispositional review hearing or a hearing to determine the need for continued secure detention shall be held.

(c) Until a specific dispositional order is entered, the court shall hold a hearing by the 20th day from the most recent court proceeding to review the status of the case and to determine the need for continued secure detention.

§ 200.105. Detention pending a dispositional review proceeding for violation of probation. (See Pa.R.J.C.P. 605, 610 and 612)

(a) Within 72 hours of the admission of a juvenile to secure detention for a violation of probation, an informal detention hearing shall be held.

(b) Within 10 days of the informal detention hearing, a hearing on the motion to modify or revoke probation shall be held.

(c) Unless a new dispositional order is entered, a hearing to determine the need for continued secure detention shall be held within 20 days of the hearing on the motion to modify or revoke probation.

(d) Until a new dispositional order is entered, the court shall hold a hearing by the 20th day from the most recent court proceeding to review the status of the case and to determine the need for continued secure detention.

§ 200.106. Detention subsequent to an order resulting from a dispositional review proceeding, where a specific placement or disposition has been ordered.

(a) At the 10th and 20th days from the most recent court proceeding, the court or designee shall administratively review the status of the case and determine the need for continued secure detention.

(b) Within 30 days of the most recent court proceeding, a hearing shall be held to review the status of the case and to determine the need for continued secure detention.

(c) Subsequent hearings and reviews shall be held pursuant to these time frames until the juvenile is admitted to a dispositional placement, or is otherwise released from secure detention.

§ 200.107. Responsibility of probation officer.

(a) The chief juvenile probation officer or designee shall provide to the court information necessary to ensure that juveniles placed in secure detention have the continued appropriateness of their detention determined by the court in accordance with this subchapter.

(b) Note: An administrative review of a case should entail consideration of the information relevant to an understanding of why the juvenile is being held in secure detention, whether secure detention services or an alternative thereto continue to be required and what must occur to enable the juvenile to be released or transferred to another facility. It is not intended that the juvenile be present during these reviews.

(c) Administrative reviews should serve to minimize delays in the release or transfer of a juvenile by helping to ensure that individuals are carrying out their respective responsibilities related to the juvenile's case. At the conclusion of each review, the juvenile's anticipated date of release or transfer should be noted, together with the date of the next administrative review or hearing and any actions which are to occur prior thereto. Administrative reviews are to be documented in the juvenile's case file or record.

**Subchapter C. STANDARDS GOVERNING THE QUALIFICATIONS
AND TRAINING OF COURT-APPOINTED SPECIAL ADVOCATES****GENERAL**

- Sec.
200.201. Appointment.
200.202. Program.

QUALIFICATIONS

- 200.211. Qualifications.

TRAINING

- 200.221. Training.

GENERAL**§ 200.201. Appointment.**

Under 42 Pa.C.S. § 6342 (relating to court-appointed special advocates), court-appointed special advocates (CASAs) may be appointed to participate as advocates for children who are dependent or alleged to be dependent. CASAs shall be appointed only by the court and shall be sworn in by the court in recognition of both the importance and confidential nature of their duties.

§ 200.202. Program.

Court-appointed special advocates (CASAs) shall, at all times, be under the supervision of a CASA program which has the legal authority to operate, and which is recognized and supported by the court. Unless the CASA program is administered by the court, the program shall likewise have a written agreement with the court defining the working relationship between the CASA program and the court. CASAs may not be assigned to a case until it is determined that all preservice training and qualification requirements have been met.

QUALIFICATIONS**§ 200.211. Qualifications.**

- (a) A court-appointed special advocate (CASA) shall be 21 years of age or older.
- (b) Prior to appointment, a CASA shall:
- (1) Successfully pass all screening requirements, including criminal history and child abuse background checks.
 - (2) Complete a written application containing information about educational background and training, employment history and experience working with children.

- (3) Submit the names of three or more references of persons unrelated to the prospective CASA.
- (4) Authorize the CASA program and other appropriate agencies to conduct a criminal record check, a child protective services background check as permitted by the laws of the Commonwealth and, if the duties of the CASA could include the transportation of children, a driving record check.
- (5) Attend and participate in personal interviews with CASA program personnel.
- (6) Be able to make a 12-month minimum commitment to a case, in addition to the time required for preservice training.
- (c) A CASA shall respect a child's inherent right to grow up with dignity, in a stable, safe, loving and nurturing environment.
- (d) A CASA shall have the ability to relate effectively to the children and families to whose cases the CASA may be assigned.
- (e) A CASA shall keep information confidential and work within the scope of established program guidelines and orders of the court, maintain objectivity and relate to a variety of people.
- (f) A CASA may not accept reimbursement for time, or for routine travel or other expenses ordinarily incurred in the discharge of assigned duties, and shall comply with the requirements established by the CASA program under whose supervision the CASA is providing services.
- (g) An individual may not be appointed as a CASA who is found to have been convicted of, or to have charges pending for, a felony or a misdemeanor involving a sex offense, child abuse or neglect, or related acts that would pose risks to children or the credibility of the CASA program. If a prospective CASA is found to have committed a misdemeanor or felony that is unrelated to or would not pose a risk to children and would not negatively impact the credibility of the CASA program, the program may consider the extent of the prospective volunteer's rehabilitation and other factors that may be relevant in determining whether to accept the applicant as a CASA volunteer.
- (h) Grounds for dismissal of a CASA include the following:
 - (1) Taking action without CASA program or court approval that endangers a child or is outside the role or powers of the CASA program.
 - (2) Engaging in ex parte communication with the court.
 - (3) Violation of a program policy, court rule or law.
 - (4) Failure to complete required in-service training.
 - (5) Failure to demonstrate an ability to effectively carry out assigned duties.
 - (6) Falsification of an application, or a misrepresentation of facts during the preappointment screening process.
 - (7) Allegations that the CASA is the subject of child abuse or neglect allegations.
 - (8) Existence of a conflict of interest that cannot be resolved.

TRAINING**§ 200.221. Training.**

(a) The court-appointed special advocate (CASA) shall have the benefit of a training and skill development program that is offered by a CASA program and which is reviewed annually and revised based on the program's assessment of its training needs.

(b) Training provided to CASAs shall conform to the curriculum "Comprehensive Training for the CASA/GAL," available from the National Court Appointed Special Advocate Association, or its equivalent.

(c) The training that is offered to CASAs shall utilize a variety of instructors, including CASA program staff, attorneys, judges, agency representatives and volunteers.

(d) CASAs shall successfully complete at least 30 hours of preservice training before being assigned to a case. This preservice training shall, at a minimum, include the following:

- (1) The roles and responsibilities of a CASA volunteer.
- (2) Court process, including dependency proceedings under 42 Pa.C.S. Chapter 63 (relating to the Juvenile Act) and involuntary termination of parental rights proceedings under 23 Pa.C.S. §§ 2101—2910 (relating to the Adoption Act).
- (3) The dynamics of human behavior associated with child abuse and neglect.
- (4) Relevant State and Federal laws.
- (5) Confidentiality and recordkeeping practices.
- (6) Child development.
- (7) Child abuse and neglect.
- (8) Permanency planning and resources.
- (9) Community agencies and resources.
- (10) Communication and information gathering, to include interviewing and report writing skill development.
- (11) Advocacy.
- (12) Special needs of the children served, including differences in cultural and socioeconomic norms, values and heritage.
- (13) The identification of personal and institutional bias or discrimination as it relates to the children and families being served.
- (14) The opportunity to visit and observe court proceedings conducted by judges and masters involving hearings under 42 Pa.C.S. Chapter 63, as well as proceedings involving the involuntary termination of parental rights under 23 Pa.C.S. §§ 2101—2910.
- (15) Ethics relating to the role of the CASA.
- (16) Expectations regarding appearance and demeanor.

(e) CASA volunteers shall be provided with at least 12 hours of in-service training annually.

Subchapter D. [Reserved]

§§ 200.301—200.308. [Reserved].

§§ 200.321—200.327. [Reserved].

§§ 200.341—200.348. [Reserved].

Source

The provisions of this Subchapter D reserved June 1, 2007, effective June 2, 2007, 37 Pa.B. 2517. Immediately preceding text appears at serial pages (290305) to (290308) and (303877) to (303878).

**Subchapter E. STANDARDS GOVERNING SEARCHES OF THE
PERSON AND PROPERTY OF CHILDREN BY JUVENILE
PROBATION OFFICERS**

GENERAL PROVISIONS

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Source

The provisions of this Subchapter E adopted May 14, 2004, effective May 15, 2004, 34 Pa.B. 2573, unless otherwise noted.

GENERAL PROVISIONS**§ 200.401. Purpose.**

Pennsylvania's juvenile justice system is mandated to provide programs of supervision, care and rehabilitation which provide balanced attention to the protection of the community, the imposition of accountability for offenses committed and the development of competencies to enable children to become responsible and productive members of the community. The authority of juvenile probation officers to conduct searches of the person and property of children is essential to achieving the community protection and accountability goals of the system. These standards are intended to guide policy and practice relating to searches of the person and property of children by juvenile probation officers.

§ 200.402. Definitions.

The following words and terms, when used in this subchapter, have the following meanings, unless the context clearly indicates otherwise.

Exigent circumstances—Include, but are not limited to, a reasonable suspicion by the probation officer that contraband or other evidence of violations of the conditions of supervision might be destroyed, or suspicion that a weapon might be used.

Personal search—A warrantless search of a child's person, including, but not limited to, the child's clothing and any personal property which is in the possession, within the reach or under the control of the child.

Property search—A warrantless search by a probation officer of real property, a vehicle or personal property which is in the possession or is under the control of a child.

Reasonable suspicion—The existence of reasonable suspicion to search shall be determined in accordance with constitutional search and seizure provisions as applied by judicial decision. Reasonable suspicion requires specific and articulable facts, that is, something more than an unparticularized suspicion or hunch. *Terry v. Ohio*, 392 U. S. 1 (1968) (reasonable suspicion requires that the officer "be able to point to specific and articulable facts which, taken together with rational inferences from those facts, reasonably warrant" the intrusion on an individual's privacy). Those specific facts must be such as to indicate that contraband or evidence of a violation of the conditions of a child's supervision will be found in the place to be searched. In accordance with that case law, the following factors, when applicable, may be taken into account:

- (i) The observations of the officers.
- (ii) Information provided by others.
- (iii) The activities of the child.
- (iv) Information provided by the child.
- (v) The experience of the probation officer with the child.
- (vi) The experience of probation officers in similar circumstances.

- (vii) The prior delinquent and supervisory history of the offender.
- (viii) The need to verify compliance with the conditions of supervision.

AUTHORITY

§ 200.411. General.

Probation officers may search the person and property of the following children:

- (1) Children who are under their supervision as delinquent children or under a consent decree.
- (2) Children who are being taken into custody or who have been taken into custody under 42 Pa.C.S. § 6324 (relating to taking into custody).
- (3) Children who are in the process of being detained under 42 Pa.C.S. § 6304, § 6325 or § 6331 (relating to powers and duties of probation officers; detention of child; and release from detention or commencement of proceedings).
- (4) Children whose cases are the subject of an intake process conducted under 42 Pa.C.S. §§ 6304 and 6331.

PERSONAL SEARCHES

§ 200.421. General.

(a) A personal search may be conducted only under the following circumstances:

- (1) When the probation officer has a reasonable suspicion to believe that the child possesses contraband or other evidence of violations of the conditions of supervision.
- (2) When the child is being transported by the probation officer.
- (3) When the child is taken into custody by the probation officer.
- (4) When a child is admitted to, or discharged from, a detention center, institution or other facility.

(b) Whenever possible, and consistent with the protection of the officer, child, and community, personal searches shall be conducted by officers who are of the same gender as the child who is the subject of the search.

PROPERTY SEARCHES

§ 200.431. General.

A property search may be conducted by a probation officer if there is reasonable suspicion to believe that the real or other property, in the possession of or under the control of a child who is under supervision as a delinquent child or pursuant to a consent decree, contains contraband or other evidence of violations of the conditions of supervision.

§ 200.432. Searching a residence.

The officer has the authority to make warrantless searches upon reasonable suspicion, of the portion of the residence to which the child normally has access. A residence in which the child shares living space with a parent or guardian can be divided into the following three zones for search purposes:

- (1) Zone 1: The portion of the residence over which the child has exclusive control can be searched without a warrant based upon reasonable suspicion.
- (2) Zone 2: The portion of the residence to which the child has access but shares with others can be searched without a warrant based upon reasonable suspicion even though the others may object. Deciding on a search in this situation is more difficult since the probation officer must be able to demonstrate that the child normally has access to the area.
- (3) Zone 3: The portion of the residence to which the child has no access cannot be searched without a search warrant based upon probable cause or the consent of the person who has control over the area.

§ 200.433. Nonapproved residence or other sites.

(a) Any residence other than the child's approved residence cannot be searched without the consent of a person who owns, leases or has access and appears to reside at that address. If consent is not obtained, a search warrant will be required to enter, except during hot pursuit.

(b) Landlords and owners, upon leasing a property, cannot enter that property without the lessee's consent except in an emergency such as a fire or in the event of water damage when the landlord or owner is permitted to protect his property. Therefore, they cannot give probation officers access to their leased property.

(c) A warrantless search of the child's job site cannot be made without consent of the owner. If consent is given, the area in which the child has exclusive control, such as a desk or locker, can effectively be searched for contraband.

(d) As with the job site, a shelter or rehabilitative program has constitutionally protected property rights. Thus, any search must be limited to an area over which the child has exclusive control. Searches or arrest should be coordinated with staff.

§ 200.434. Extent of search.

The extent of any search is limited to articulable reasons. If the reason for a search is to arrest the child and the child is located and arrested, the search must end. An exception is a search of the immediate area around the child for safety reasons. Additional reasonable suspicion would be required to continue the search beyond that area.

§ 200.435. Use of force.

(a) Forced entry into an approved residence should only occur when the probation officer has reason to believe a fugitive is inside or evidence of violations, such as weapons or drugs, may be removed or destroyed if not seized immediately. For example, the officer hears the child's voice inside the home or notes movement, but no one responds to the officer's knocking and identification.

(b) Probation officers should enter using only the amount of force necessary.

§ 200.436. Motor vehicles.

Motor vehicles can be searched if any of the following conditions exist:

- (1) The child owns the vehicle.
- (2) The child is driving the vehicle although the child is not the owner.
- (3) The child is observed in the vehicle. This authorizes a limited search in the immediate area where the child is sitting unless consent is given by the operator/owner to search the entire vehicle.

§ 200.437. Additional requirements.

(a) Except when exigent circumstances are present, juvenile probation officers shall receive the approval of a supervisor to conduct a property search.

(b) Juvenile probation supervisors and administrators may conduct a property search without prior approval.

(c) The child may be detained for safety reasons if the child is present during a property search. Temporary confinement or restraint is permissible as long as the confinement ends as soon as it is reasonably safe to do so.

(d) If the child is not present during a property search, the probation officer in charge of the search shall make a reasonable effort to provide the child and the child's parent/guardian with notice of the search, including an inventory of the items seized, after the search is completed.

(e) Conditions of supervision for children under the supervision of probation officers as delinquent children, or pursuant to a consent decree, shall include a statement notifying the child that a property search may be conducted by a probation officer if there is reasonable suspicion to believe that the real or other property, in the possession of or under the control of the child, contains contraband or other evidence of violations of the conditions of supervision.

PROCEDURES

§ 200.441. Written reports.

A written report of every person or property search shall be completed by the probation officer who conducted the search. The report shall be maintained in the child's case file.

(1) The written report of a personal search shall include the name of the child, the date and time of the search, other persons present, the location of the child when the search was conducted, the circumstances necessitating the search and an inventory of all items seized.

(2) The written report of a property search shall contain the elements in paragraph (1) and, if relevant to the search, any exigent circumstances that existed at the time of the search.

§ 200.442. Agency protocols.

(a) Each probation department shall develop a protocol for conducting personal and property searches that is approved by the court.

(b) The protocol should include, at a minimum, the following:

(1) The circumstances under which searches should be conducted.

(2) The procedures to obtain supervisory approval.

(3) The documentation of reasonable suspicion and exigent circumstances, when appropriate.

(4) The documentation, chain of custody and security of all items seized.

§ 200.443. Training.

Prior to conducting searches, probation officers should receive training in the following areas:

(1) The legal requirements of searches.

(2) The provisions of this subchapter.

(3) The provisions of the agency's protocol for conducting searches and seizures.

(4) The physical and verbal techniques involved in both personal and property searches.

**Subchapter F. STANDARDS GOVERNING THE ADMINISTRATION
OF RESTITUTION FUNDS**

GENERAL PROVISIONS

Sec.

200.501. Purpose.

200.502. Definitions.

**ESTABLISHMENT AND ADMINISTRATION
OF RESTITUTION FUNDS**

200.511. Establishment of a restitution fund.

200.512. Written guidelines.

200.513. Disbursements from a restitution fund.

200.514. Elements of written guidelines.

Source

The provisions of this Subchapter F adopted February 24, 2006, effective February 25, 2006, 36 Pa.B. 957, unless otherwise noted.

GENERAL PROVISIONS

§ 200.501. Purpose.

(a) Pennsylvania's juvenile justice system is mandated to provide programs of supervision, care and rehabilitation which provide balanced attention to the protection of the community, the imposition of accountability for offenses committed and the development of competencies to enable children to become responsible and productive members of the community.

(b) Section 6352(a)(5) of the Juvenile Act (relating to disposition of delinquent child), gives juvenile courts the authority to order payment of reasonable amounts of money, as fines, costs, fees or restitution by a child who has been found to be a delinquent child, as deemed appropriate as part of the plan of rehabilitation considering the nature of the acts committed and the earning capacity of the child, including a contribution to a restitution fund. This section further provides that the president judge of the court of common pleas shall establish a restitution fund for the deposit of all contributions to the restitution fund which are received or collected.

(c) The Juvenile Act provides, as well, that the terms and conditions of an informal adjustment or consent decree disposition may include contributions by a child to a restitution fund, and that the court may direct that any part of the money received from a child regarding whom notice has been certified to the court that the child has failed to comply with a lawful sentence imposed for a summary offense, shall be deposited into a restitution fund established by the president judge.

(d) This subchapter is intended to provide guidance to president judges in the administration of restitution funds established under the Juvenile Act.

§ 200.502. Definitions.

The following words and terms, when used in this subchapter, have the following meanings, unless the context clearly indicates otherwise.

Juvenile Act—42 Pa.C.S. Chapter 63.

Restitution fund—A fund established by the president judge of a court of common pleas under section 6352(a)(5) of the Juvenile Act (relating to disposition of delinquent child), from which disbursements are made at the discretion of the president judge pursuant to written guidelines promulgated by the president judge and the limitations of the Juvenile Act, and used to reimburse crime victims for financial losses resulting from delinquent acts.

ESTABLISHMENT AND ADMINISTRATION OF RESTITUTION FUNDS**§ 200.511. Establishment of a restitution fund.**

In jurisdictions where a contribution to a restitution fund by a child may be included among the terms and conditions of an informal adjustment or consent decree or as part of a plan of rehabilitation resulting from an adjudication of delinquency, the president judge of the court of common pleas shall establish a restitution fund under 42 Pa.C.S. § 6352(a)(5) (relating to disposition of delinquent child) for the deposit of all contributions to the restitution fund which are received or collected.

§ 200.512. Written guidelines.

The president judge shall promulgate written guidelines for the administration of a restitution fund.

§ 200.513. Disbursements from a restitution fund.

Disbursements from the restitution fund shall be made at the discretion of the president judge, under the written guidelines and the limitations of the Juvenile Act, and shall be used to reimburse crime victims for financial losses resulting from delinquent acts.

§ 200.514. Elements of written guidelines.

Written guidelines promulgated for the administration of a restitution fund shall, at a minimum, include the following elements:

- (1) The court may direct that any portion of the money received from a child alleged to be delinquent for failing to comply with a lawful sentence imposed for a summary offense may be deposited into the restitution fund.
- (2) The terms and conditions of an informal adjustment or a consent decree may include a contribution by the child to the restitution fund.
- (3) The terms and conditions of a disposition following an adjudication of delinquency may include a contribution by the child to the restitution fund.
- (4) Disbursements from the fund shall be used to reimburse crime victims for financial losses resulting from delinquent acts.
- (5) Disbursements from the fund shall require the signatures of at least two persons designated by the president judge.
- (6) A policy requiring an annual report, detailing the aggregate and individual data regarding payments to and disbursements from the restitution fund.
- (7) A requirement for an annual audit, under county policy, of all payments to and disbursements from the fund.

**Subchapter G. STANDARDS GOVERNING THE COLLECTION AND
DISBURSEMENT OF RESTITUTION**

- Sec.
200.601. Written guidelines.
200.602. Elements of written guidelines.

Authority

The provisions of this Subchapter G issued under section 4 of the act of December 21, 1959 (11 P. S. § 240-4), unless otherwise noted.

Source

The provisions of this Subchapter G adopted May 12, 2006, effective May 13, 2006, 36 Pa.B. 2282, unless otherwise noted.

§ 200.601. Written guidelines.

The president judge of the court of common pleas shall promulgate written guidelines governing the collection and disbursement of restitution in juvenile delinquency cases, under 42 Pa.C.S. § 6352(a)(5) (relating to disposition of delinquent child).

§ 200.602. Elements of written guidelines.

The written guidelines must, at a minimum, include the following elements:

- (1) A policy that children under the jurisdiction of the court who owe restitution be required to make a reasonable amount of restitution, considering the nature of the acts committed and the earning capacity of the child.
- (2) A policy that a dispositional order include a specific amount of restitution to be paid, to whom the restitution is to be paid, and a payment schedule if so determined by the court.
- (3) A policy that the monetary limits of parental liability in juvenile delinquency cases conform to 23 Pa.C.S. § 5505 (relating to monetary limits of liability).
- (4) A policy that where the court has ordered a delinquent child to pay fines, costs or restitution, the court shall retain jurisdiction until there has been full compliance with the order or until the delinquent child attains 21 years of age.
- (5) A policy that judgments be filed at termination of juvenile court jurisdiction under 42 Pa.C.S. § 9728 (relating to collection of restitution, reparation, fees, costs, fines and penalties) in cases where orders for fines, costs or restitution remain unpaid.
- (6) A policy that the juvenile probation department be responsible for developing private sector or subsidized employment opportunities, or both, to enable indigent children to pay restitution.

(7) Provisions governing the collection of moneys, the management and control of receipts, and disbursement of funds.

(8) A policy requiring an annual report detailing individual and aggregate data on the amount of restitution ordered and collected.

(9) A requirement for an annual audit of all restitution collected and disbursed in juvenile delinquency cases.

Subchapter H. STANDARDS GOVERNING THE INTER-COUNTY TRANSFER OF DELINQUENCY CASES

Sec.

Preamble

200.701. Venue.

200.702. Inter-county transfer.

200.703. Courtesy supervision.

200.704. Transmission of information.

Authority

The provisions of this Subchapter H issued under section 4 of the act of December 21, 1959 (11 P. S. § 270-4), unless otherwise noted.

Source

The provisions of this Subchapter H adopted May 12, 2006, effective May 13, 2006, 36 Pa.B. 2282, unless otherwise noted.

Preamble

The cases of children who commit delinquent acts in other than their county of residence present unique challenges to Pennsylvania's juvenile courts, as do the cases of children whose county of residence changes during the course of juvenile court proceedings. Early and ongoing communication between officials in the affected counties is the first essential step in successfully processing these cases.

Both Pa.R.J.C.P. 300 (Venue) and the Juvenile Act, at 42 Pa.C.S. § 6321(b) (relating to commencement of proceedings) provide that proceedings may be commenced in either the county in which the alleged delinquent act occurred or the child's county of residence. However, this subchapter recommends that allegations of delinquency should normally be referred for juvenile court intake in the county in which the alleged delinquent act occurred because of its proximity to victims, witnesses, and law enforcement personnel.

When the court proceeds to an adjudicatory hearing for a nonresident child, both Pa.R.J.C.P. 302(A) (Adjudication of Delinquency) and this subchapter provide that the court shall hear the evidence on the petition or accept an admission, and rule on the offenses.

Upon finding that a nonresident child has committed a delinquent act, and specifying the grading and counts thereof, Pa.R.J.C.P. 302(A) provides that the

court may then transfer the case to the child's county of residence for a hearing to determine if the juvenile is in need of treatment, supervision or rehabilitation. However, the transfer of such cases is not required by this rule.

This subchapter recommends that the court, upon determining that a nonresident child has committed a delinquent act, should transfer the case to the child's county of residence. The court in the county of residence can then conduct the hearing to determine if the child is in need of treatment, supervision or rehabilitation and make final disposition of the case. Normally, the county of residence is most familiar with the circumstances of the family and will be providing supervision of the case if the child is found to be delinquent.

§ 200.701. Venue. (See Pa.R.J.C.P. 300)

(a) A delinquency proceeding must be commenced in either the county in which the delinquent act was allegedly committed or the child's county of residence. Allegations of delinquency should normally be brought through the submission of a written allegation to the juvenile probation department or an attorney for the Commonwealth, consistent with local practice, in the county in which the alleged delinquent act occurred.

(b) The child may file a motion for change of venue if there is substantial prejudice to the child. The court shall decide the motion.

§ 200.702. Inter-county transfer. (See Pa.R.J.C.P. 302(A))

(a) In cases where a child is alleged to be delinquent through the submission of a written allegation to a juvenile probation department in other than the child's county of residence, the juvenile probation department should promptly initiate contact with the juvenile probation department in the county of residence to discuss the matter and jointly determine the most appropriate manner for processing the case. For the purpose of this subsection, the county of residence is defined as that county in which the child's custodial parent, legal guardian or custodian reside, unless emancipation of the child has been established by court finding.

(b) Consistent with local practice, attorneys for the Commonwealth in both the county of residence and the county in which the alleged delinquent act occurred shall be provided notice of the submission of any such allegation by their respective juvenile probation departments to ensure a unified and coordinated effort.

(c) In certain cases, it may be appropriate to transfer a matter to the county of residence immediately following the intake conference. In such cases, the juvenile probation department in the county that received the written allegation should provide the attorney for the Commonwealth in that county with notice of the decision resulting from the intake conference.

(1) The decision to transfer a matter to the county of residence following an intake conference should be jointly determined by the juvenile probation departments and the attorneys for the Commonwealth of the respective jurisdictions.

(2) No transfer to the county of residence should occur over the objection of the attorney for the Commonwealth, unless the court orders the transfer following a hearing pursuant to Pa.R.J.C.P. 311 (relating to intake conference).

(d) If formal court action is required in a case where a child is alleged to have committed a delinquent act in other than the child's county of residence, adjudicatory proceedings should normally be conducted in the county in which the delinquent act occurred, unless a specific arrangement to the contrary has been agreed to by the attorneys for the Commonwealth in both jurisdictions. In certain cases, it may be appropriate for adjudicatory proceedings to occur in the county of residence, rather than the county in which the delinquent act occurred, including situations where the court in the county of residence is in closer proximity to the victim, law enforcement agency or others involved in the case.

(e) In adjudicatory proceedings involving a nonresident child, the court shall hear evidence on the petition or accept an admission, and shall make and file its findings as to whether the delinquent acts ascribed to the child were committed by the child.

(f) If the court finds that the child committed the acts by reason of which the child was alleged to be delinquent, it shall enter the finding on the record and may then transfer the case to the county of residence for a hearing to determine the child's need for treatment, supervision or rehabilitation. Consistent with local practice in the county of residence, notice of this transfer for hearing and disposition, along with all relevant information, should be provided to the district attorney or juvenile probation department in the county of residence.

(1) While Pa.R.J.C.P. 302(A) (relating to inter-county transfer) permits the transfer of the case to the county of residence following a determination that a nonresident child committed a delinquent act, a transfer is not required.

(2) The recommended practice is that the case should be transferred to the court in the county of residence for a hearing to determine whether the child is in need of treatment, supervision or rehabilitation, and for that court to make final disposition of the case. Normally, the county of residence is most familiar with the circumstances of the family and will be providing supervision of the case if the child is found to be delinquent.

(3) If restitution is owed, the transferring court should enter a finding of the amount of restitution owed and to whom it should be paid, if ordered.

(g) The jurisdiction that makes final disposition of a delinquency matter under 42 Pa.C.S. Chapter 63 (relating to the Juvenile Act) is responsible for implementing the disposition, including the costs of placement or treatment, and the collection of fines, costs and restitution.

(h) Except upon an agreement to the contrary, the responsibility for the return of a child to the child's county of residence should be that of the county of residence. In all cases, the return of a child to the child's county of residence should occur promptly.

(i) If transfer to criminal proceedings is considered an option in a particular case, officials from the county in which the alleged offenses occurred should immediately contact the appropriate officials in the county of residence to discuss the appropriateness of the various dispositional alternatives, toward the goal of reaching agreement on a course of action. In such a case, however, the ultimate decision regarding whether to seek transfer of the case to criminal proceedings rests with the attorney for the Commonwealth in the county in which the alleged delinquent acts occurred.

§ 200.703. Courtesy supervision. (See Pa.R.J.C.P. 302(B))

(a) If the court in the county in which the delinquent act occurred places the child on a consent decree or enters a dispositional order following an adjudication of delinquency, the court may transfer supervision of the child to the child's county of residence. Likewise, in cases where a child's county of residence changes following disposition, the court in the former county of residence may transfer supervision of the child to the new county of residence.

(b) A county providing courtesy supervision may, with cause, withdraw the supervision at any time and return the matter for further action to the county which entered the disposition order.

§ 200.704. Transmission of information. (See Pa.R.J.C.P. 302(C))

In proceedings involving courtesy supervision or the inter-county transfer of a delinquency case, the transferring court shall order the transfer of certified copies of all documents, reports and summaries to the receiving court.

**Subchapter I. STANDARDS GOVERNING THE RELEASE OF
INFORMATION CONTAINED IN JUVENILE COURT FILES AND
JUVENILE PROBATION RECORDS AND REPORTS**

GENERAL PROVISIONS

- Sec.
- 200.801. Definitions.
- 200.802. Inspection of juvenile court files and juvenile probation records or reports.
- 200.803. Release of information to schools.
- 200.804. Public availability.

Authority

The provisions of this Subchapter I issued 42 Pa.C.S. §§ 6371—6375, unless otherwise noted.

Source

The provisions of this Subchapter I adopted May 12, 2006, effective May 13, 2006, 36 Pa.B. 2282, unless otherwise noted.

§ 200.801. Definitions. (See Pa.R.J.C.P. 120, 166(A) and Comment to Pa.R.J.C.P. 160)

The following words and terms, when used in this subchapter, have the following meanings, unless the context clearly indicates otherwise:

Clerk of Courts—That official in each judicial district who has the responsibility and function under State law and local practice to maintain the official juvenile court file and docket, without regard to that person's official title.

Juvenile court files—All original records, papers and orders filed, copies of all court notices, and docket entries.

Juvenile probation records or reports—The term includes, but is not limited to, social summaries, psychological and psychiatric evaluations, personal histories, school records and reports, mental health histories and reports, drug and alcohol evaluations, treatment facility records and reports, and copies of all original court records, papers, orders and notices.

Authority

The provisions of this § 200.801 amended under 42 Pa.C.S. §§ 6371—6375.

Source

The provisions of this § 200.801 amended August 22, 2008, effective August 23, 2008, 38 Pa.B. 4632. Immediately preceding text appears at serial page (327892).

§ 200.802. Inspection of juvenile court files and juvenile probation records or reports. (See Pa.R.J.C.P. 160 and 42 Pa.C.S. § 6307)

(a) No court authorization is required for the following persons or agencies to review and copy information contained in juvenile court files and juvenile probation records or reports:

- (1) The judges, masters, juvenile probation officers and staff of the court.
- (2) The attorney for the Commonwealth, the child's attorney, and the child, but the persons in this category are not permitted to see reports revealing the names of confidential sources of information, except in 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 officers and other officials or 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 the 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 the Pennsylvania Courts.

(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. Chapter 63) 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 the discretion of the court.

(8) A parole board, court or county probation official in considering an individual who was previously adjudicated delinquent in a proceeding under 42 Pa.C.S. Chapter 63 (relating to the Juvenile Act), but the persons in this category are not permitted to see reports revealing the names of confidential sources of information contained in social reports, except in 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.

(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) A court order shall be required to release any information contained in juvenile court files or juvenile probation records or reports to any other person or agency not listed in subsection (a).

(1) A court order is required to release information to military recruiters, officials from the Immigration and Naturalization Service (INS), the Department of Homeland Security, and others.

(2) Requests for access to, or copies of, juvenile court or juvenile probation files and records should be in the form of a motion to the court that specifies the information being sought and the purpose for which the information will be used. In determining whether to grant the motion, the court should consider the purpose for which the information will be used, the nature of the information requested, administrative or legislative authority governing the release of the information, the nature of the offense, and the impact that the release of the information would have on the child and the community.

(3) Any court order granting the release of information should specify the information to be released and prohibit the further dissemination of the information.

(c) The president judge should adopt written policies and procedures, governing the dissemination of juvenile probation records and reports, to include the following:

(1) A policy that a representative from the juvenile probation department is to be present throughout the inspection of records, and be responsible for the duplication of records.

(2) A requirement that a case-specific written record be maintained by the juvenile probation department listing the names and addresses of individuals to whom copies of records are provided.

(3) A statement prohibiting the secondary dissemination of information should accompany records provided to individuals.

§ 200.803. Release of information to schools. (See Pa.R.J.C.P. 163 and 42 Pa.C.S. § 6341(b.1))

(a) Upon finding a child to be a delinquent child, the court shall, through the juvenile probation department, provide the following information to the building principal, or a designee, of any public, private, or parochial school in which the child is enrolled:

- (1) The name and address of the child.
- (2) The delinquent acts that the child was found to have committed.
- (3) A brief description of the delinquent acts.
- (4) The disposition of the case.

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

(c) The court or the juvenile probation department has the authority to share additional information regarding the child under its jurisdiction with the building principal, or a designee, as deemed necessary to protect public safety or to enable appropriate treatment, supervision, or rehabilitation of the child.

(d) Information provided to or maintained by the building principal, or a designee, under this section shall be transferred to the building principal or a designee of any public, private or parochial school to which the child transfers enrollment.

(e) Information provided to the building principal, or a designee, under this section shall be maintained separately from the child's official school record.

(f) 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.

§ 200.804. Public availability. (See Pa.R.J.C.P. 160, 330, 515 and 42 Pa.C.S. § 6307(b))

(a) A dispositional order entered following an adjudication of delinquency shall include a designation as to whether the case is eligible for limited public information, under 42 Pa.C.S. § 6307(b)(1)(i) (relating to inspection of court files and records). The court shall designate a case as eligible for limited public information if the child has been adjudicated delinquent by a court as a result of an act committed:

- (1) When the child was 14 years of age or older and the conduct would be considered a felony if committed by an adult.
- (2) When the child was 12 or 13 years of age and the conduct would have constituted one or more of the following offenses if committed by an adult:
 - (i) Murder.
 - (ii) Voluntary manslaughter.
 - (iii) Aggravated assault as defined in 18 Pa.C.S. § 2702(a)(1) or (2) (relating to aggravated assault).
 - (iv) Arson as defined in 18 Pa.C.S. § 3301(a)(1) (relating to arson and related offenses).
 - (v) Involuntary deviate sexual intercourse.
 - (vi) Kidnapping.
 - (vii) Rape.
 - (viii) Robbery as defined in 18 Pa.C.S. § 3701(a)(1)(i), (ii) or (iii) (relating to robbery).
 - (ix) Robbery of motor vehicle.
 - (x) Attempt or conspiracy to commit any of the aforementioned offenses.

(b) Upon the request of an individual for information regarding a case in which the court in its dispositional order has designated the case as eligible for limited public information under 42 Pa.C.S. § 6307(b)(1)(i), the clerk of courts shall create a public document that contains the following information:

- (1) The juvenile's name.
- (2) The juvenile's age.
- (3) The juvenile's address.
- (4) The offenses alleged in the petition.
- (5) The adjudication on each allegation.
- (6) The disposition of the case.

(c) A petition alleging delinquency must contain an averment as to whether the case is eligible for limited public information under 42 Pa.C.S. § 6307(b)(1)(ii). A case shall be eligible for limited public information if the petition alleges that the child has committed an act that is subject to open pro-

ceedings under 42 Pa.C.S. § 6336(e) (relating to conduct of hearings) and the child previously has been adjudicated delinquent by a court as a result of an act committed:

- (1) When the child was 14 years of age or older and the conduct would be considered a felony if committed by an adult.
- (2) When the child was 12 or 13 years of age and the conduct would have constituted one or more of the following offenses if committed by an adult:
 - (i) Murder.
 - (ii) Voluntary manslaughter.
 - (iii) Aggravated assault as defined in 18 Pa.C.S. § 2702(a)(1) or (2).
 - (iv) Arson as defined in 18 Pa.C.S. § 3301(a)(1).
 - (v) Involuntary deviate sexual intercourse.
 - (vi) Kidnapping.
 - (vii) Rape.
 - (viii) Robbery as defined in 18 Pa.C.S. § 3701(a)(1)(i), (ii) or (iii).
 - (ix) Robbery of motor vehicle.
 - (x) Attempt or conspiracy to commit any of the aforementioned offenses.
- (d) Upon the request of an individual for information regarding a case in which the petition includes an averment that the case is eligible for limited public information under 42 Pa.C.S. § 6307(b)(1)(ii), the clerk of courts shall create a public document that contains the following information:
 - (1) The juvenile's name.
 - (2) The juvenile's age.
 - (3) The juvenile's address.
 - (4) The offenses alleged in the petition.

Authority

The provisions of this § 200.804 amended under 42 Pa.C.S. §§ 6371—6375.

Source

The provisions of this § 200.804 amended August 22, 2008, effective August 23, 2008, 38 Pa.B. 4632. Immediately preceding text appears at serial pages (327894) to (327895).

Subchapter J. STANDARDS GOVERNING THE ASSIGNMENT OF COMMUNITY SERVICE IN JUVENILE DELINQUENCY CASES

- Sec.
200.901. Definitions.
200.902. Written guidelines.
200.903. Elements of written guidelines.

Authority

The provisions of this Subchapter J issued under 42 Pa.C.S. §§ 6371—6375, unless otherwise noted.

Source

The provisions of this Subpart J adopted June 1, 2007, effective June 2, 2007, 37 Pa.B. 2517, unless otherwise noted.

§ 200.901. Definitions.

The following words and terms, when used in this subchapter, have the following meanings, unless the context clearly indicates otherwise.

Community service—A specific number of work or service hours, or a task that a juvenile is ordered by the court to perform, or agrees to perform, as a condition of an informal adjustment, consent decree or probation disposition following an adjudication of delinquency.

(i) Community service is intended to be symbolic reparation for the harm that a juvenile's actions have caused a specific crime victim or the community, or both, that is integral to a juvenile delinquency case disposition which provides balanced attention to the protection of the community, the imposition of accountability for offenses committed, and the development of competencies to enable the juvenile to become a responsible and productive member of the community.

(ii) Community service enables juveniles to develop valuable skills and positive work habits, and is normally performed in association with a civic or nonprofit organization.

(iii) Whenever possible, community service should provide tangible benefits to the community, the crime victim and the juvenile.

§ 200.902. Written guidelines.

The president judge of the court of common pleas shall promulgate written guidelines governing the assignment of community service as a condition of supervision for juveniles who have been alleged or found to be delinquent.

§ 200.903. Elements of written guidelines.

The written guidelines governing the assignment of community service as a condition of supervision for juveniles who have been alleged or found to be delinquent must, at a minimum, include the following elements:

(1) A policy regarding the purpose, eligibility criteria, and the appropriate amount of community service required as a condition of an informal adjustment, consent decree, or probation disposition following an adjudication of delinquency that considers:

- (i) The juvenile's age, mental capacity and physical capability.
- (ii) The nature, grading and location of the offense.

- (iii) The impact that the offense has had upon the victim and community.
 - (iv) Any verbal or written victim impact statement that is received, which may include a recommendation for community service from the victim.
 - (v) The hours the juvenile is available to perform community service.
 - (vi) The times of day that community service can be performed at a particular site.
 - (vii) How community service will benefit the community in which it is being performed.
 - (viii) The juvenile's strengths and interests and how the juvenile is likely to benefit from the community service experience.
 - (ix) The assignment of community service to juveniles is consistent with sections 1—24.1 of the Child Labor Law (43 P. S. §§ 41—66.1).
 - (x) The specific amount of community service to be performed by the juvenile is assigned at disposition.
- (2) A strategy for community service site recruitment, selection and retention which includes the opportunity for input by crime victims and the community-at-large.
 - (3) A policy describing the referral process for community service assignments.
 - (4) A policy requiring that juveniles assigned to complete community service are kept separate from adults who are performing community service.
 - (5) A policy requiring communication with the community service site supervisor and periodic visits to the community service site.
 - (6) A policy regarding procedures to address noncompliance with community service obligations.
 - (7) A policy that provides the opportunity for a juvenile's crime victim to be notified when community service has been completed by the juvenile.
 - (8) A strategy for the dissemination of information to the public regarding the community service program.
 - (9) A policy outlining any accident or liability insurance coverage associated with the community service program.
 - (10) A policy requiring an annual report, including individual and aggregate data on the amount of community service assigned and performed.

Subchapter K. STANDARDS GOVERNING THE OPERATION OF A JUVENILE PROBATION MERIT SYSTEM

Sec.

200.1001. Equal employment opportunity policies.

200.1002. Juvenile probation officer employment qualifications.

200.1003. Juvenile probation department policies and procedures.

Authority

The provisions of this Subchapter K adopted under 42 Pa.C.S. §§ 6371—6375.

Source

The provisions of this Subchapter K adopted August 22, 2008, effective August 23, 2008, 38 Pa.B. 4632, unless otherwise noted.

§ 200.1001. Equal employment opportunity policies.

(a) Juvenile probation office staff shall be employed in conformance with the merit principles adopted under Title II of the Intergovernmental Personnel Act of 1970 (42 U.S.C.A. §§ 4721—4727). These principles, which comprise the “Standards for a Merit System of Personnel Administration” (5 CFR 900.603 (relating to standards for a merit system of personnel administration)) include:

- (1) Recruiting, selecting and advancing employees on the basis of their relative ability, knowledge and skills, including open consideration of qualified applicants for initial appointment.
- (2) Providing equitable and adequate compensation.
- (3) Training employees, as needed, to assure high quality performance.
- (4) Retaining employees on the basis of the adequacy of their performance, correcting inadequate performance and separating employees whose inadequate performance cannot be corrected.
- (5) Assuring fair treatment of applicants and employees in all aspects of personnel administration without regard to political affiliation, race, color, national origin, gender, sexual orientation, religious creed, age or handicap and with proper regard for their privacy and constitutional rights as citizens. This “fair treatment” principle includes compliance with the Federal equal employment opportunity and nondiscrimination laws.
- (6) Assuring that employees are protected against coercion for partisan political purposes and are prohibited from using their official authority for the purpose of interfering with or affecting the result of an election or a nomination for office.

§ 200.1002. Juvenile probation officer employment qualifications.

(a) The minimum requirement for employment as a juvenile probation officer shall be a bachelor’s degree, with a background of at least 18 credits in the behavioral or social sciences from an accredited college or university.

- (1) Provisions for exception to this standard through participation in an exceptional person process shall be provided for by the Juvenile Court Judges’ Commission.
- (2) Eligibility for the exceptional person process shall require an individual to have 4 years of related experience, and to pass a written test, and an oral exam arranged for by the Commission.

(b) Other tests of aptitude, attitude, abilities, skills or knowledge, may be required as found appropriate at the county level, provided that the additional tests are announced in advance and are the same for all candidates. The Juvenile Court Judges' Commission will provide a testing program which courts may use for screening applicants.

(c) The qualifications for a vacant juvenile probation officer position shall be announced prior to commencing the recruitment process and must be directly related to the expectations for that position as outlined in the job description. No other qualifications may be considered.

(d) A personnel transaction form and a college transcript shall be filed with the Juvenile Court Judges' Commission by the Chief Juvenile Probation Officer within 10 working days of the filling of any juvenile probation officer position. An exception to the college transcript requirement may apply where the new employee was granted exceptional person status under subsection (a).

(e) A job description for each position shall be maintained and adhered to in the juvenile probation office. A clear job description provides employees with an understanding of their positions and forms the basis for evaluation of employee job performance.

(f) New employees shall be required to complete a 12-month probationary period during which they shall receive more intensive supervision and training than permanent juvenile probation officers. Their performance shall be evaluated semiannually and employees receiving unsatisfactory evaluations shall be terminated at, or before, the end of the probationary period. An exception to this standard applies only when a probationary period of a different length is part of a collective bargaining agreement.

(g) The minimum annual training requirement for continuing employment as a juvenile probation officer shall be the successful completion of 40 hours of approved training per year.

(1) Training programs and graduate classes sponsored by the Center for Juvenile Justice Training and Research are approved.

(2) Subject to the approval of the Chief Juvenile Probation Officer, all in-State, job-related training programs, including training sponsored by juvenile probation departments, are approved, as are graduate classes and conferences.

(3) In-State or out-of-State conferences sponsored by the National Council of Juvenile and Family Court Judges (NCJFCJ), American Probation and Parole Association (APPA), Middle Atlantic States Correctional Association (MASCA), Pennsylvania Association on Probation, Parole and Correction (PAPPC) and the American Correctional Association (ACA) are also approved. Other out-of-State training or conferences require prior approval by the Center for Juvenile Justice Training and Research. Unless a program is completed in its entirety, none of the time spent in it can be counted in meeting this requirement.

(4) Members of the Executive Committee, standing committees and ad hoc committees of the Pennsylvania Council of Chief Juvenile Probation Officers (Council) may apply up to 20 hours of meeting attendance per year toward the annual training requirement. This includes attendance at general membership, Executive Committee, and other meetings of the Council, as well as meetings of the Juvenile Court Judges' Commission.

(5) The Chief Juvenile Probation Officer shall annually submit a report to the Center for Juvenile Justice Training and Research detailing the approved training completed by each juvenile probation officer. The report must be in a format designed by the Juvenile Court Judges' Commission.

(h) Juvenile probation officers shall have a written performance evaluation completed at least annually by their supervisors. This evaluation shall become part of their personnel files and shall be available for inspection by representatives of the Juvenile Court Judges' Commission.

§ 200.1003. Juvenile probation department policies and procedures.

(a) The compensation provided to juvenile probation officers, including salaries, salary increases and bonuses, shall be equitable to the compensation provided to other county and court personnel.

(b) Each juvenile probation office shall develop an organizational chart which shows the flow of responsibilities.

(c) Each juvenile probation office shall establish a personnel manual that describes the rights and benefits of all juvenile probation officers employed in the office.

(d) Each juvenile probation office shall establish written grievance, appeal and hearing procedures for employees.

(1) These procedures shall be made known to all employees.

(2) An exception to this standard applies if this issue is addressed in a collective bargaining agreement.

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(336840) No. 408 Nov. 08

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