Pennsylvania's Crime Victims' Rights and Corresponding Rules of Juvenile Court Procedure

A Handbook for Juvenile Justice Professionals and Victim Service Providers

Pennsylvania Council of Chief Juvenile Probation Officers
Juvenile Court Judges' Commission

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Victim Services Committee of the Pennsylvania Council of Chief Juvenile Probation Officers

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INTRODUCTION

The Victim Services Committee of the Pennsylvania Council of Chief Juvenile Probation Officers (PCCJPO) in collaboration with the Juvenile Court Judges' Commission (JCJC) designed this handbook for use by juvenile justice professionals and victim services program providers to raise the awareness of the importance of rights for crime victims and the responsibility of the juvenile justice system to deliver those rights. In this publication you will find:

- An overview of rights of crime victims delineating three primary categories into which the rights of victims can be defined. Those categories of rights are:

  The right to be ***notified***

  The right to be ***present***

  The right to be ***heard***

- A discussion of the importance of these rights and their influence on the well being of the victim as well as an emphasis on victim cooperation and participation in the juvenile justice system.

- The compilation of crime victims' rights and corresponding rules of the juvenile justice system.

- A presentation and alignment of the two sources of authority that govern the implementation of victim rights in Pennsylvania's juvenile justice system.

  1. The first authority is the Pennsylvania Crime Victims Act, Title 18 P.S. § 11.101 which delineates the rights of crime victims within Pennsylvania's criminal and juvenile justice system. The Crime Victims Act can be found in Appendix A.

  2. The second authority is the Juvenile Court Procedural Rules, which can be found in Appendix B. These rules are established by the authority of the Pennsylvania Supreme Court and govern the practice, procedures and the conduct of the juvenile court.

These rules supersede existing law to the extent that they are inconsistent with rules proscribed by the Supreme Court of Pennsylvania. (Pa R.J.C.P. Rule 102).

Pennsylvania law requires the automatic delivery of most rights by juvenile probation, prosecutors, police and other actors within the system. However, some rights are framed in the law as "upon the request of the victim." Often referred to as "opted in" rights, these require the system to notify the victim of their right and responsibility to make their request for information and notification known.

BACKGROUND

In 1995, during Special Session 1, the Pennsylvania Legislature changed the mission of the Juvenile Court with the passage of Act 33, amending the Juvenile Act with a new purpose clause reading in part as follows:

> "…consistent with the protection of the public interest, to provide for children committing delinquent acts 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" (42 Pa.C.S.§6301).

According to the PCCJPO and the JCJC:

> "This new purpose clause in the Juvenile Act is rooted in the philosophy of balanced and restorative justice, which gives priority to repairing the harm done to crime victims and communities and which defines offender accountability in terms of assuming responsibility for the harm caused by his/her behavior and taking action to repair that harm to the extent possible. At the foundation of this philosophy is the concept that crime victims and the community, as well as juvenile offenders, should receive balanced attention and gain tangible benefits from their interactions with Pennsylvania's juvenile justice system" (Pennsylvania Council of Chief Juvenile Probation Officers, 2015).

Passage of this landmark legislation brought new engagement between juvenile justice practitioners and the victim service community. This engagement created opportunities for conversations on how to provide balanced attention to victims and resulted in a strong and successful advocacy effort to draft, introduce, and amend the Crime Victims Act to extend rights to victims of juvenile offenders (Act 86, 2000).

Juvenile probation has a long history of contribution to the advancement of victim rights. In 1976 James Rowland, then the Chief Probation Officer of Fresno County, California, recognized the need to include victim impact information in his presentence investigation reports. His initiative was in essence the creation of the first victim impact statement in this nation (NIJ, 2015). This seemingly small step by a single chief juvenile probation officer launched a nationwide use of victim impact statements. Now seen as a common right of crime victims in the pre and post adjudication and the dispositional hearing, victim impact statements have been debated and argued in the United States Supreme Court. The prevailing Supreme Court decision is Payne v. Tennessee (1991), which provides that victim impact statements may be used if the "…state law permits the prosecution to explain what repercussions survivors have shouldered because of the incident…" (Doerner and Lab, 2015, p. 178).

A VICTIM'S RIGHT

TO BE NOTIFIED

Victims who are informed and involved in the process are more likely to be cooperative and satisfied with their experience in juvenile justice system.

Notification and information are potent needs of crime victims. It is not by choice that victims of juvenile offenders are involved in the juvenile justice system. That choice was made for them by the juvenile offender. The victim's lack of power to control the situation will affect every movement, every action and all of their choices in their journey toward recovery. Juvenile probation's efforts to deliver rights to victims of crime can contribute to the victim's restoration. Providing notification to victims of their rights at each stage of the process can also assist victims in assessing their own personal sense of safety and security. Notification and information also provide opportunities for victims to regain the power and control that was taken during the commission of the crime. In addition, notification and information of rights to victims afford victims the opportunity to:

- Emotionally and spiritually prepare for their participation in the system.
- Prepare for the responses of family and friends to the victimization.
- Address the practical issues of their participation, including arranging for transportation, funding for transportation and subsistence, time off from work, child care, and other issues related to disruptions in their everyday lives.
- Address their own emotions and reactions to the victimization and participation in the system.
- Determine who they need as a support person and/or victim advocate to accompany them to proceedings.
- Identify the questions, concerns or comments they may have.

Providing victims with timely and accurate notification and information about the listing of a hearing, canceled or rescheduled hearings, detention status, transfers between facilities, release from placement, and other significant actions listed in the Crime Victims' Bill of Rights is crucial to victims' overall well being.

Furthermore, required notifications by the juvenile justice system to victims can be viewed as an effort by the system to acknowledge:

- ▲ It is the victim who has been harmed.
- ▲ The mission of the juvenile justice system is to assist the juvenile offender in repairing this harm.
- ▲ The system seeks no further harm to the victim through exclusion from the process.

Carr, Logio and Maier (2003), in their study of the juvenile court in Philadelphia, found that what helps victims most is being notified (informed) of case status in addition to positive interactions with justice system personnel. Notification provides victims with a sense of inclusion in the process and creates a more positive experience in the juvenile justice system overall. Notification to victims must be accompanied by information. Information needs to include, at minimum, the following:

- ▲ The mission of the juvenile justice system
- ▲ An overview of the process
- ▲ What a victim can expect at each stage of the process
- ▲ What is required of the victim at each stage of the process
- ▲ The victims' rights, responsibilities and role at each stage of the process
- ▲ Who has decision making authority at each stage of the process

This type of notification and information provides victims with a further sense of inclusion in the process and validation for the harm they have suffered. It provides victims with the potential outcomes at each stage of the process and give them the opportunity to prepare themselves, thus reducing surprises and unintentional revictimization and trauma.

A VICTIM'S RIGHT

TO BE PRESENT

The opportunity to be present during proceedings in the juvenile justice system is an important way in which victims feel included in the process. Victims may want and need to be present to see the offender, hear the arguments and or the recommendations of both the defense and the Commonwealth and see the reactions of all parties involved in the proceedings (OVC, 2001). Most importantly, when present, victims can see and hear the case unfold before their own eyes. Providing victims with the opportunity to be present allows them to determine for themselves what they will see and hear. They can stay or leave as the testimony proceeds. Their presence allows them to learn about the system first hand. Allowing victims to be present at proceedings removes them from the sidelines of justice and places them closer to the experience of justice.

Allowing victims to be present at proceedings removes them from the sidelines of justice and places them closer to the experience of justice.

Ensuring the opportunity for victims to be present demonstrates the transparency of the juvenile justice system in addressing the crimes committed against them. Victims may not always choose to attend, but extending the right to be present acknowledges the victims' need to be included and the system's desire to include them throughout the process. Extending to victims the right to be present represents an effort by the system to restore the power and control taken from them as a result of the commission of the offense. Victims who are informed and involved in the process are more likely to be cooperative and satisfied with their experience in juvenile justice system.

A VICTIM'S RIGHT

TO BE HEARD

When the victim is heard and the system responds appropriately victims are more likely to feel respected and experience a sense of justice.

The opportunity for victims to be heard by the juvenile justice system may have the greatest impact on their overall well-being and may influence their satisfaction with the justice system. The victim's initial complaint becomes words, a story on paper. It has no face, little feeling and is impersonal. When a victim is consulted on the potential for the reduction of charges, to provide testimony, or to submit a victim impact statement, the victim becomes a real person who is now part of the system of justice. These opportunities bring the victim from the sidelines toward the center of the process where they can talk about their victimization, the long term effects on them, their family and friends and what they need to experience justice.

When including victims in consultation on plea agreements, testimony, and submission of victim impact statements, it is important to provide victims with information and education that establishes for them the legal framework, its limits, and their rights and responsibilities. Including victims in this manner will ease the pain of any unrealistic expectations and more effectively address the crime committed.

In addition, being heard extends to all aspects of supervision while the juvenile is under the jurisdiction of the juvenile court. Equally important times for the victim to be heard are everyday contacts to probation staff with concerns such as:

- They have seen a juvenile who they thought was in placement
- They have been contacted by a juvenile
- They have questions about restitution or
- They seek information about conditions of supervision

Interactions with the victim at these times are critical aspects of the right to be heard. Sometimes victims experience inclusion in the early stages of the processing of the juvenile when the system needs their cooperation to move the juvenile offender through the system. However, victims can experience a sense of exclusion once the juvenile is under probation supervision. In these situations, when the victim initiates the contact with the juvenile system, it is important that we honor them by responding to their needs for information, assistance and overall concerns. Victims who experience being heard by the justice system are more likely to feel respected and experience justice.

COLLABORATION WITH VICTIM SERVICE PROGRAMS

WHY COLLABORATION?

Victims have varying and often complex needs at any given point in the aftermath of crime. These ancillary needs may range from:

- Restitution
- Emergency financial assistance
- Counseling
- Shelter
- Notification of significant actions within the juvenile justice system
- Assistance in filing for crime victims compensation
- Court accompaniment
- Advocacy within the justice, medical, insurance and other systems
- Assistance with the media
- Assistance with submission of a victim impact statement

As the ability to meet all of the needs of crime victims extends beyond the scope of responsibility of the juvenile justice system, it is essential for juvenile probation offices to collaborate with victim service programs.

As the ability to meet all of the needs of crime victims extends beyond the scope of responsibility of the juvenile justice system, it is essential for juvenile probation offices to collaborate with victim service programs. To do this, it is imperative that juvenile probation officers are knowledgeable of local victim service programs and how to make an appropriate referral.

An array of victim service programs exists in each of the 67 counties to address these ancillary needs of victims. These victim service programs have specific areas of expertise, resources and experience in working with victims of crime. The most effective way to address the broad range of needs of victims of juvenile offenders is to work in collaboration with others in the county that also provide services to victims.

What Does Collaboration Look Like?

- Regularly scheduled meetings between key staff of victim services and juvenile probation.
- Cross training of staff
- Coordination on brochures and notification letters
- Development of county protocols for delivery of service
- Engaging in victim rights events
- Establish policy and protocol for making referrals
- Create brochure of all county services including juvenile probation

Collaboration between juvenile probation offices and victim service programs requires all agencies to learn about the operations, missions and legal mandates of each agency. It requires a more intertwined relationship where agencies come together to contribute to a coordinated county response to victims of juvenile offenders. Collaboration can bring about necessary discussions that can address:

- Cost effectiveness
- Duplication of services
- Identification of gaps in services
- Victim centered policies
- Accurate and timely referrals for ancillary services
- Cross training between juvenile probation offices and victim service programs
- Consistent messaging to victims
- New and more effective processes, while each agency maintains their independence and individual responsibilities (APPA, 2013).

The experiences of victims in the juvenile justice system are enhanced through collaboration. Collaboration can reduce the potential for re-victimization during the victims' involvement in the system. Collaboration can ensure that victims are reminded many times of their rights and services available. The nature of trauma requires restatement of these rights and services throughout the processing of the case and beyond. Victims may require some services immediately, some later in time, and yet others long after the system has completed the processing of the juvenile. Collaboration should result in a coordinated response. A coordinated response creates a safety net to ensure victims receive information on all rights and services available.

For example:

- ▲ Victims should be informed of the right to be accompanied to all juvenile court proceedings by a family member, a victim advocate, or other person providing assistance and support. In the immediate aftermath of crime, victims may not understand who the advocates in the county are and what if any information and experience they have in providing support and assistance. They may not understand that they can have their family member and an advocate present with them.

- ▲ Even when they have been informed by the police about crime victims compensation they may not yet know if or when they will incur any financial losses. As the case progresses through the system, victims may disclose information about financial losses. At this point it would be important for juvenile probation officers to know which agency in the county provides assistance in filing compensation claims and how the probation officer should make the referral.

Compilation of the Crime Victims' Bill of Rights and the Corresponding Rules of Juvenile Court Procedure

The Crime Victims Act

18 P.S. § 11. 201 Rights

(1) To receive basic information concerning the services available for victims of crime.

(2) To be notified of certain significant actions and proceedings within the juvenile justice system pertaining to their case, including:

- **i.** Access to information regarding whether the juvenile was detained or released following arrest, and whether a petition alleging delinquency has been filed; and
- **ii.** Immediate notification of a juvenile's pre-adjudication escape from a detention center or shelter facility and of the juvenile's subsequent apprehension;
- **iii.** Access to information regarding the grant or denial of bail to an adult.
- **iv.** Immediate notification of an adult offender's pretrial escape from a local correctional facility and of the offender's subsequent apprehension.

Corresponding Rules of Juvenile Court Procedure

Rule 241 – Notice of detention hearing

Rule 242 – Detention Hearing

Rule 360 – Summons and Notice

Rule 500 – Summons and Notice of the Dispositional Hearing

Rule 600 – Summons and Notice of the Commitment Review, Dispositional Review, and Rule 610 Dispositional and Commitment Review Probation Revocation.

Rule 631 – Termination of Court Supervision C. Hearing

Rule 632 – Early Termination of Court Supervision by Motion

18 P.S. § 11. 201 Rights

(3) To be accompanied at all juvenile proceedings in accordance with 42 Pa. C.S. §6336 (relating to conduct of hearings) by a family member, a victim advocate or other person providing assistance or support.

Corresponding Rules of Juvenile Court Procedure

Rule 132 – Victim's Presence

18 P.S. § 11. 201 Rights

(4) To have the opportunity to offer prior comment on the sentencing of a defendant or the disposition of a delinquent child, to include the submission of a written and oral victim impact statement detailing the physical, psychological and economic effects of the crime on the victim and the victim's family. The written statement shall be included in any predisposition report submitted to the court. Victim impact statements shall be considered by a court in determining the disposition of a juvenile or the sentencing of an adult.

Corresponding Rules of Juvenile Court Procedure

Rule 312 – Informal Adjustment

Rule 311 – Intake Conference

Rule 370 – Consent Decree

Rule 512 – Dispositional Hearing

Rule 513 – Aids in Disposition

Rule 610 – Dispositional and Commitment Review

Rule 631 – Termination of Court Supervision

Rule 632 – Early Termination of Court Supervision by Motion

18 P.S. § 11. 201 Rights

(5) To have the opportunity to offer prior comment on the sentencing of a defendant or the disposition of a delinquent child, to include the submission of a written and oral victim impact statement detailing the physical, psychological and economic effects of the crime on the victim and the victim's family. The written statement shall be included in any predisposition report submitted to the court. Victim impact statements shall be considered by a court in determining the disposition of a juvenile or the sentencing of an adult.

(5.1) To have notice and to provide prior comment on a judicial recommendation that the defendant participate in a motivational boot camp pursuant to the act of December 19, 1990 (P.L. 1391, No 215), known as the Motivational Boot Camp Act.

(5.2) Upon request of the victim of a personal injury crime, to have the opportunity to submit written comment of present oral testimony at a disposition review hearing, which comment or testimony shall be considered by the court when reviewing the disposition of the juvenile.

Corresponding Rules of Juvenile Court Procedure

Rule 312 – Informal Adjustment

Rule 311 – Intake Conference

Rule 370 – Consent Decree

Rule 512 – Dispositional Hearing

Rule 513 – Aids in Disposition

Rule 610 – Dispositional and Commitment Review

Rule 631 – Termination of Court Supervision

18 P.S. § 11. 201 Rights

(6) To be restored, to the extent possible, to the pre-crime economic status through the provision of restitution, compensation, and the expeditions return of property that is seized, as evidence in the case, when in the judgment of the prosecutor the evidence is no longer needed for prosecution of the case.

Corresponding Rules of Juvenile Court Procedure

Rule 312 – Informal Adjustment

Rule 311 – Intake Conference

Rule 370 – Consent Decree

Rule 631 – Termination of Court Supervision

18 P.S. § 11. 201 Rights

(7) In personal injury crimes where the adult is sentenced to a State Correctional facility, to be:

- **i)** given the opportunity to provide prior comment on and to receive State post sentencing release decisions, including work release, furlough, parole, pardon or community treatment center placement;
- **ii)** provided immediate notice of an escape of the adult and of subsequent apprehension; and
- **iii)** given the opportunity to receive notice of and to provide prior comment on a recommendation sought by the Department of Corrections that the offender participate in a motivational boot camp pursuant to the Motivational Boot Camp Act.

18 P.S. § 11. 201 Rights

(8) In personal injury crimes where the adult is sentenced to a local correctional facility, to:

- **i)** receive notice of the date of the release of the adult, including work release, furlough, parole, release from a boot camp or community treatment center placement; and
- **ii)** be provided with immediate notice of an escape of the adult and of subsequent apprehension.

(8.1) If, upon the request of the victim of a personal injury crime committed by a juvenile, the juvenile is ordered to residential placement, a shelter facility or a detention center, to:

- **i)** Receive prior notice of the date of the release of the juvenile, including temporary leave or home pass.
- **ii)** Be provided with:
  - **(A)** immediate notice of an escape of the juvenile, including failure to return from temporary leave or home pass; and
  - **(B)** immediate notice of reapprehension of the juvenile.
- **iii)** Be provided with notice of transfer of a juvenile who has been adjudicated delinquent from a placement facility that is contrary to a previous court order or placement plan approved at a disposition review hearing and to have the opportunity to express a written objection prior to the release or transfer of the juvenile.

Corresponding Rules of Juvenile Court Procedure

Rule 600 – Summons and Notice of the Commitment Review, Dispositional Review, and Probation Revocation Hearing

Rule 610 – Dispositional and Commitment Review

Rule 241 – Notice of Detention Hearing

Rule 242 – Detention Hearing

18 P.S. § 11. 201 Rights

(9) If the adult is subject to an order under 23 Pa.C.S. Ch. 61 (relating to protection from abuse) and is committed to a local correctional facility for a violation of the order or for a personal injury crime against a victim protected by the order, to receive immediate notice of the release of the adult on bail.

(10) To receive notice if an adult is committed to a mental health facility from a State correctional institution and notice of the discharge, transfer or escape of the adult from the mental health facility.

(11) To have assistance in the preparation of, submission of and follow-up on financial assistance claims to the bureau.

(12) To be notified of the details of the final disposition of the case of a juvenile consistent with 42 Pa.C.S. § 6336(f) (relating to conduct of hearings).

Corresponding Rules of Juvenile Court Procedure

Rule 312 – Informal Adjustment

Rule 242 – Detention Hearing

Rule 408 – Ruling on Offenses

Rule 409 – Adjudication of Delinquency

Rule 512 – Dispositional Hearing

Rule 632 – Early Termination of Court Supervision by Motion

(13) Upon the request of the victim of a personal injury crime, to be notified of the termination of the courts' jurisdiction.

Corresponding Rules of Juvenile Court Procedure

Rule 631 – Termination of Court Supervision

Rule 632 – Early Termination of Court Supervision by Motion

Note:

The Rules of Juvenile Court Procedure have deviated from the restrictions on offenses in the Crime Victims Act. In the Crime Victims Act there are certain rights pertaining to victims of personal injury crimes which sometimes include burglary and sometimes do not. The Pennsylvania Rules of Juvenile Court Procedure have for the most part dispensed with these restrictions. As noted in Rule 102 (Pa.R.J.C.P) all laws are suspended to the extent they are inconsistent with the prescribed rules.

The Rules of Juvenile Court Procedures can be found at www.pacourts.us/courts/supreme-court/committees/rules-committees/juvenile-court-procedural-rules-committee/juvenile-court-committee-rules-and-forms

The Pennsylvania Crime Victims' Bill of Rights can be found at www.legis.state.pa.us/WU01/LI/LI/US/PDF/1998/0/0111..PDF

Appendix A
The Crime Victims Act

18 P.S. § 11.101 Short Title
The Crime Victims Act

§ **11.102. Legislative Intent**
The General Assembly finds and declares as follows:

(1) In recognition of the civic and moral duty of victims of crime to fully and voluntarily cooperate with law enforcement and prosecutorial agencies and in further recognition of the continuing importance of victim cooperation to State and local law enforcement efforts and the general effectiveness and well-being of the criminal justice system of this Commonwealth, all victims of crime are to be treated with dignity, respect, courtesy and sensitivity.

(2) The rights extended to victims of crime are to be honored and protected by law enforcement agencies, prosecutors and judges in a manner no less vigorous than the protections afforded criminal defendants.

18 P.S. § 11. 201 Rights
Victims of crime have the following rights:

(1) To receive basic information concerning the services available for victims of crime.

(2) To be notified of certain significant actions and proceedings within the juvenile justice system pertaining to their case, including:
- **i)** Access to information regarding whether the juvenile was detained or released following arrest, and whether a petition alleging delinquency has been filed; and
- **ii)** Immediate notification of a juvenile's pre-adjudication escape from a detention center or shelter facility and of the juvenile's subsequent apprehension;
- **iii)** Access to information regarding the grant or denial of bail to an adult.
- **iv)** Immediate notification of an adult offender's pretrial escape from a local correctional facility and of the offender's subsequent apprehension.

(3) To be accompanied at all juvenile proceedings in accordance with 42 Pa. C.S. §6336 (relating to conduct of hearings) by a family member, a victim advocate or other person providing assistance or support;

(4) In cases involving a personal injury crime or burglary, to submit prior comment to the disposition of a delinquent child, t include the submission of a written and oral victim impact statement detaining the physical, psychological and economic effects of the crime on the victim and the victim's family. The written statement shall be included in any predisposition or presentence report submitted to the court. Victim-impact statement shall be considered by a court when determining the disposition of a juvenile or sentence of an adult.

(5) To have the opportunity to offer prior comment on the sentencing of a defendant or the disposition of a delinquent child, to include the submission of a written and oral victim impact statement detailing the physical, psychological and economic effects of the crime on the victim and the victim's family. The written statement shall be included in any predisposition report submitted to the court. Victim impact statements shall be considered by a court in determining the disposition of a juvenile or the sentencing of an adult.

(5.1) To have notice and to provide prior comment on a judicial recommendation that the defendant

participate in a motivational boot camp pursuant to the act of December 19, 1990 (P.L. 1391, No 215), known as the Motivational Boot Camp Act.

(5.2) Upon request of the victim of a personal injury crime, to have the opportunity to submit written comment of present oral testimony at a disposition review hearing, which comment or testimony shall be considered by the court when reviewing the disposition of the juvenile.

(6) To be restored, to the extent possible, to the pre-crime economic status through the provision of restitution, compensation, and the expeditions return of property that is seized, as evidence in the case, when in the judgment of the prosecutor the evidence is no longer needed for prosecution of the case.

(7) In personal injury crimes where the adult is sentenced to a State Correctional facility, to be:

- **i)** given the opportunity to provide prior comment on and to receive State post sentencing release decisions, including work release, furlough, parole, pardon or community treatment center placement;
- **ii)** provided immediate notice of an escape of the adult and of subsequent apprehension; and
- **iii)** given the opportunity to receive notice of and to provide prior comment on a recommendation sought by the Department of Corrections that the offender participate in a motivational boot camp pursuant to the Motivational Boot Camp Act.

(8) In personal injury crimes where the adult is sentenced to a local correctional facility, to:

- **i)** receive notice of the date of the release of the adult, including work release, furlough, parole, release from a boot camp or community treatment center placement; and
- **ii)** be provided with immediate notice of an escape of the adult and of subsequent apprehension.

(8.1) If, upon the request of the victim of a personal injury crime committed by a juvenile, the juvenile is ordered to residential placement, a shelter facility or a detention center, to:

- **i)** Receive prior notice of the date of the release of the juvenile, including temporary leave or home pass.
- **ii)** Be provided with:
  - **A)** immediate notice of an escape of the juvenile, including failure to return from temporary leave or home pass; and
  - **B)** immediate notice of reapprehension of the juvenile.
- **iii)** Be provided with notice of transfer of a juvenile who has been adjudicated delinquent from a placement facility that is contrary to a previous court order or placement plan approved at a disposition review hearing and to have the opportunity to express a written objection prior to the release or transfer of the juvenile.

(9) If the adult is subject to an order under 23 Pa.C.S. Ch. 61 (relating to protection from abuse) and is committed to a local correctional facility for a violation of the order or for a personal injury crime against a victim protected by the order, to receive immediate notice of the release of the adult on bail.

(10) To receive notice if an adult is committed to a mental health facility from a State correctional institution and notice of the discharge, transfer or escape of the adult from the mental health facility.

(11) To have assistance in the preparation of, submission of and follow-up on financial assistance claims to the bureau.

(12) To be notified of the details of the final disposition of the case of a juvenile consistent with 42 Pa.C.S. § 6336(f) (relating to conduct of hearings).

(13) Upon the request of the victim of a personal injury crime, to be notified of the termination of the courts' jurisdiction.

Appendix B
Rules of Juvenile Court Procedure

Rule 102 – Citing the Juvenile Court Procedural Rules

All juvenile court procedural rules adopted by the Supreme Court of Pennsylvania under the authority of Article V § 10(c) of the Constitution of Pennsylvania, adopted April 23, 1968, shall be known as the Pennsylvania Rules of Juvenile Court Procedure and shall be cited as "Pa.R.J.C.P."

> **Comment:** The authority for rule-making is granted to the Supreme Court by Article V § 10(c) of the Pennsylvania Constitution, which states in part, "[t]he Supreme Court shall have the power to prescribe general rules governing practice, procedure and the conduct of all courts … if such rules are consistent with this Constitution and neither abridge, enlarge nor modify the substantive rights of any litigant, nor affect the right of the General Assembly to determine the jurisdiction of any court or justice of the peace, nor suspend nor alter any statute of limitation or repose. All laws shall be suspended to the extent that they are inconsistent with rules prescribed under these provisions."

Rule 132 – Victim's Presence

The victim, counsel for the victim, and other persons accompanying a victim for his or her assistance shall be permitted to attend the proceedings, except as provided in Rule 311.

> **Explanatory Report*:*** Section 6336(d) of the Juvenile Act provides for "parties, their counsel, witnesses, the victim and counsel for the victim, other persons accompanying a party or a victim for his or her assistance, and any other person as the court finds have a proper interest in the proceeding." 42 Pa.C.S. § 6336(d). The Victim's Bill of Rights, 18 P.S. § 11.201, provides that victims of crime have the right to be accompanied to all juvenile proceedings by a family member, a victim advocate or other person providing assistance or support. Reading these statutes together, the Committee concluded that the court is to determine who is present for the victim's assistance and who has a proper interest. The court should limit the number of persons attending to those that are there specifically for support.

Rule 241 – Notice of Detention Hearing

Notice of the detention hearing, including date, time, place, and purpose, shall be given to:

1) the juvenile;
2) the juvenile's guardian;
3) the juvenile's attorney;
4) the juvenile probation officer;
5) the attorney for the Commonwealth;
6) the victim; and
7) any other appropriate persons.

> **Comment:** Notice should be as timely as possible. Because there is a seventy-two hour time restriction, notice may be oral. Every possible attempt should be made to notify all interested persons. If a guardian has not been notified, a rehearing is to be ordered under Rule 243 upon submission of an affidavit by the guardian. The attorney for the Commonwealth or its designee is to notify the victim of the date, time, place, and purpose of the hearing. *See* Victim's Bill of Rights, 18 P.S. § 11.201 *et seq*. Any persons may be subpoenaed to appear for the detention hearing. *See* Rule 123 and 42 Pa.C.S. § 6333. However, nothing in these rules requires the attendance of the victim unless subpoenaed.

Rule 242 – Detention Hearing

A. Informing Juvenile of Rights. Upon commencement of the hearing, the court shall:

1) provide a copy of the written allegation to the juvenile and the juvenile's guardian, if present;
2) inform the juvenile of the right to counsel and to retain private counsel or to be assigned counsel; and
3) inform the juvenile of the right to remain silent with respect to any allegation of delinquency.

B. Manner of Hearing.

1) **Conduct.**
   a) The hearing shall be conducted in an informal but orderly manner.
   b) The attorney for the Commonwealth shall:
      i) attend the hearing; and
      ii) present such evidence as the Commonwealth deems necessary to support the written allegation and the need for detention.
2) **Recording.** If requested by the juvenile or the Commonwealth, or if ordered by the court, the hearing shall be recorded by appropriate means. If not so recorded, full minutes of the hearing shall be kept.
3) **Testimony and Evidence.**
   a) All evidence helpful in determining the questions presented, including oral or written reports, may be received by the court and relied upon to the extent of its probative value even though not competent in the hearing on the petition.
   b) The juvenile's attorney, the juvenile, if the juvenile has waived counsel pursuant to Rule 152, and the attorney for the Commonwealth shall be afforded an opportunity to examine and controvert written reports so received.
4) **Juvenile's Rights.** The juvenile shall be present at the detention hearing and the juvenile's attorney or the juvenile, if the juvenile has waived counsel pursuant to Rule 152, may:
   a) cross-examine witnesses offered against the juvenile; and
   b) offer evidence or witnesses, if any, pertinent to the probable cause or detention determination.
5) **Advanced Communication Technology.** A court may utilize advanced communication technology pursuant to Rule 129 for a juvenile or a witness unless good cause is shown otherwise.

C. Findings. The court shall determine whether:

1) there is probable cause that a delinquent act was committed by the juvenile;
2) detention of the juvenile is warranted; and
3) there are any special needs of the juvenile that have been identified and that the court deems necessary to address while the juvenile is in detention.

D. Filing of Petition. If a juvenile remains detained after the hearing, a petition shall be filed with the clerk of courts within twenty-four hours or the next court business day.

E. Court's Order. At the conclusion of the detention hearing, the court shall enter a written order setting forth its findings pursuant to paragraph (C).

Comment: A detention hearing consists of two stages. The first stage of a detention hearing is a probable cause hearing. If probable cause is not found, the juvenile is to be released. If probable cause is found, then the court is to proceed to the second stage. The second stage of a detention hearing is a detention determination hearing. The court should hear pertinent evidence concerning the detention status of the juvenile, review and consider all alternatives to secure detention, and determine if the detention of the juvenile is warranted. An additional determination is required in paragraph (C)(3) although this is not a third stage of the detention hearing. It is important that the court address any special needs of the juvenile while the juvenile is in detention. The juvenile's attorney, the juvenile probation officer, or detention staff is to present any educational, health care, and disability needs to the court, if known at the time of the hearing. Special needs may include needs for special education, remedial services, health care, and disability. If the court determines a juvenile is in need of an educational decision maker, the court is to appoint an educational decision maker pursuant to Rule 147. When addressing the juvenile's needs concerning health care and disability, the court's order should address the right of: 1) a juvenile to receive timely and medically appropriate screenings and health care services, 55 Pa. Code § 3800.32 and 42 U.S.C. § 1396d(r); and 2) a juvenile with disabilities to receive necessary accommodations, 42 U.S.C. § 12132, 28 C.F.R. § 35.101 *et seq*., Section 504 of the Rehabilitation Act of 1973, *as amended*, 29 U.S.C. § 794, and implementing regulations at 45 C.F.R. § 84.1 *et seq*.
Pursuant to the Juvenile Act, the court has authority to order a physical or mental examination of a juvenile and medical or surgical treatment of a minor, who is suffering from a serious physical condition or illness

which requires prompt treatment in the opinion of a physician. The court may order the treatment even if the guardians have not been given notice of the pending hearing, are not available, or without good cause inform the court that they do not consent to the treatment. 42 Pa.C.S. § 6339(b).The procedures of paragraph (D) deviate from the procedures of the Juvenile Act. *See* 42 Pa.C.S. § 6331. Under paragraph (D), a petition does not have to be filed within twenty-four hours of the juvenile's detention; rather, the petition should be filed within twenty-four hours of the conclusion of the detention hearing if the juvenile is detained. *See* Rule 800. If the juvenile is not detained, a petition may be filed at any time prior to the adjudicatory hearing. However, the juvenile's attorney should have sufficient notice of the allegations prior to the adjudicatory hearing to prepare for the defense of the juvenile. *See* Rule 330 for petition requirements, Rule 331 for service of the petition, and Rule 363 for time of service.

The victim may be present at the hearing. *See* Rule 132 and 18 P.S. § 11.201 *et seq.* Any persons may be subpoenaed to appear for the hearing. *See* Rule 123 and 42 Pa.C.S. § 6333. However, nothing in these rules requires the attendance of the victim unless subpoenaed. If the victim is not present, the victim is to be notified of the final outcome of the proceeding. *See* Victim's Bill of Rights, 18 P.S. § 11.201 *et seq*. *See* 42 Pa.C.S. §§ 6332, 6336, and 6338 for the statutory provisions concerning informal hearings and other basic rights.

Official Note: Rule 242 adopted April 1, 2005, effective October 1, 2005. Amended April 21, 2011, effective July 1, 2011. Amended April 29, 2011, effective July 1, 2011. Amended May 26, 2011, effective July 1, 2011. Amended July 18, 2012, effective October 1, 2012.

Rule 311 – Intake Conference

A. Generally. The juvenile probation officer may conduct an intake conference to determine what further action, if any, should be taken.

B. Juvenile Probation Officer's Duties. Before proceeding with an intake conference, the juvenile probation officer shall:

1) provide a copy of the written allegation to the juvenile, the juvenile's guardian, if present, and the juvenile's attorney, if present; and

2) inform the juvenile and the juvenile's guardian, if present, of the juvenile's rights; and

3) afford the victim the opportunity to offer prior comment on the disposition of the case if informal adjustment or an alternative resolution of the case is being considered.

C. Rescheduling. If a juvenile fails to appear for an intake conference, the juvenile probation officer may attempt to reschedule the conference.

D. Bench Warrants.

1) If the juvenile fails to appear for an intake conference, the juvenile probation officer may notify the court that the juvenile has failed to appear for the conference.

2) If a judge finds that sufficient notice of the intake conference was given, the judge may issue a bench warrant. The judge may not find notice solely based on first-class mail service.

3) If a bench warrant is issued, the case shall proceed pursuant to Rules 140 and 240

E. Notice, Motion, and Hearing.

1) The juvenile probation officer shall provide the attorney for the Commonwealth with notice of the decision resulting from the intake conference.

2) Within a reasonable time of receiving the notice, the attorney for the Commonwealth may file a motion requesting review by the court of the juvenile probation officer's action.

3) The court shall conduct a hearing on the motion.

Comment: Under paragraph (A), in making a decision, the juvenile probation officer should balance the interests of the victim and protection of the community, imposition of accountability on the juvenile for offenses committed, and the development of competencies for the juvenile. *See* 42 Pa.C.S. § 6301. The juvenile probation officer should consult with the victim, the attorney for the Commonwealth, the juvenile, the juvenile's attorney, if present, and the juvenile's guardian to determine how the case should be handled. *See* Victim's Bill of Rights, 18 P.S. § 11.201 *et seq.*For the statutory protections concerning statements made by the juvenile, see 42 Pa.C.S. § 6323(e). Pursuant to paragraphs (C) & (D), if a juvenile fails to appear for an intake conference, juvenile probation officers should use their discretion in determining whether to reschedule the intake conference or ask the court to issue a bench warrant. Pursuant to paragraph

(D) (2), in determining sufficient notice, the judge may not find notice solely based on first-class mail service. *See also* Rule 140 (A) (2) and its *Comment.* Under paragraph (E), it is anticipated that the attorney for the Commonwealth should consult with the juvenile probation officer before any court action. Nothing in these rules is intended to confer a right upon any person, not already afforded by law, to attend an intake conference. If the attorney for the Commonwealth objects pursuant to paragraph (E) (2), the court is to conduct a hearing on the motion. The attorney for the Commonwealth or its designee is to notify the victim of the date, time, place, and purpose of the hearing conducted pursuant to paragraph (E)(3). The victim may be present at the hearing on the objections and is to be afforded the opportunity to submit an oral and/or written victim-impact statement. *See* Rule 132 and the Victim's Bill of Rights, 18 P.S. § 11.201 *et seq.*

Rule 312 – Informal Adjustment

A. Participation. At any time prior to the filing of a petition, the juvenile probation officer may informally adjust the allegation(s) if it appears:

1) an adjudication would not be in the best interest of the public and the juvenile;

2) the juvenile and the juvenile's guardian consent to informal adjustment with knowledge that consent is not obligatory; and

3) the admitted facts bring the case within the jurisdiction of the court.

B. Completion.

1) If the juvenile successfully completes the informal adjustment, the case shall be dismissed and prosecution is barred.

2) If the juvenile does not successfully complete the informal adjustment, a petition shall be filed.

Comment: Pursuant to paragraph (A), informal adjustments may not occur after the filing of a petition. *See* Rule 800 (12), which suspends 42 Pa.C.S. § 6323(a) only to the extent that it conflicts with this rule. *See also Commonwealth v. J.H.B.*, 760 A.2d 27 (Pa. Super. Ct. 2000). The juvenile probation officer or other agencies may give "counsel and advice" as to the informal adjustment. *See* 42 Pa.C.S. § 6323(b). "Counsel and advice" may include referral to a social service agency or other conditions as agreed to by the juvenile probation officer and the juvenile. A juvenile's participation in an informal adjustment may not exceed six months, unless extended by order of the court for an additional period not to exceed three months. *See* 42 Pa.C.S. § 6323(c). Any incriminating statements made by the juvenile to the juvenile probation officer and in the discussions or conferences incident thereto are not to be used against the juvenile over objection in any criminal proceeding or hearing under the Juvenile Act. *See* 42 Pa.C.S. § 6323(e). Prior to informally adjusting the written allegation, the juvenile probation officer is to give the victim an opportunity to submit an oral and/or written victim-impact statement if the victim so chooses. The juvenile probation officer is to include the payment of restitution agreed to be owed to the victim as a condition of successful completion of an informal adjustment by a juvenile. If the victim is not present, the victim is to be notified of the final outcome of the proceeding. *See* Victim's Bill of Rights, 18 P.S. §11.201 *et seq.* If a petition is filed because the juvenile has not successfully completed the requirements of an informal adjustment, the procedures of Rule 330 are to be followed.

Rule 360 – Summons and Notice

A. Summons**.** The court shall issue a summons compelling the juvenile and the juvenile's guardian to appear for the adjudicatory hearing.

B. Notice**.** Notice of the adjudicatory hearing shall be given to:

1) the attorney for the Commonwealth;

2) the juvenile's attorney;

3) the juvenile probation office; and

4) the victim.

C. Requirements**.** The general summons and notice procedures of Rule 124 shall be followed.

Rule 360 – Comment: Section 6335 of the Juvenile Act provides that the court is to direct the issuance of a summons to the juvenile, guardian, and any other persons as appears to the court to be proper and necessary for the proceedings. 42 Pa.C.S. § 6335. The guardian's failure to appear should not prevent the adjudicatory hearing from proceeding. The attorney for the Commonwealth or its designee is to notify the victim of the

date, time, place, and purpose of the adjudicatory hearing. *See* Victim's Bill of Rights, 18 P.S. § 11.201 *et seq*. Any persons may be subpoenaed to appear for the hearing. *See* Rule 123 and 42 Pa.C.S. § 6333.

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, 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:

1) the terms, conditions, and duration of the consent decree pursuant to Rule 373; and

2) the consequences for violating the conditions of the consent decree, which include the petition under which the juvenile was continued under supervision may, in the discretion of the attorney for the Commonwealth following consultation with the juvenile probation officer, be reinstated, and the juvenile held accountable as if the consent decree had never been entered if:

a) prior to discharge by the juvenile probation officer or expiration of the consent decree, there is a filing of a new petition against the juvenile; or

b) the juvenile otherwise fails to fulfill express terms and conditions of the decree.

Comment: A consent decree is a device for placing an allegedly delinquent juvenile under supervision of the juvenile probation office prior to, and as an alternative to, adjudication, thus avoiding potential stigma attached to an adjudication of delinquency. *Commonwealth v. Wexler*, 431 A.2d 877 (Pa. 1981). Before placing the juvenile on consent decree, the victim(s) of the offense should be consulted. *See* Victim's Bill of Rights, 18 P.S. § 11.201 *et seq*. Under this rule, it is expected that the attorney for the Commonwealth should consult with the juvenile probation officer before revoking the consent decree. The consent decree should only be revoked if the juvenile fails to meet the conditions of the program or new allegations have been filed against the juvenile. 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.

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 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 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 170(A).

3) Absent cause shown, the court shall expunge or destroy the records, fingerprints, and photographs.

C. Committed Act. 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 committed none of the alleged delinquent acts, the court, *sua sponte*, is to expunge or destroy the records, **f**ingerprints, 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 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.*

Rule 409 – Adjudication of Delinquency

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

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

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

b) any fingerprints and photographs taken shall be destroyed.

2) In Need.

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

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

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

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

B. Timing

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

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

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

Comment: Under paragraph (A), absent evidence to the contrary, evidence of the commission of acts that constitute a felony is sufficient to sustain a finding that the juvenile is in need of treatment, supervision, or rehabilitation. *See* 42 Pa.C.S. § 6341(b). If the court determines that the juvenile is not in need of treatment, supervision, or rehabilitation and the court enters an order terminating jurisdiction, 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.* This rule addresses adjudicating the juvenile delinquent or releasing the juvenile from the court's jurisdiction. This determination is different from finding the juvenile committed a delinquent act under Rule 408. Pursuant to 42 Pa.C.S. § 6308(c)(3), all fingerprints and photographic records are to be destroyed

upon order of the court if the juvenile is not adjudicated delinquent. Pursuant to paragraph (A)(2)(b)(ii), a case reference number is to be included to help track this case. *See Comment* to Rule 170 for further description of a case reference number. A report on the disposition is to be sent to the Juvenile Court Judges' Commission. *See* 42 Pa.C.S. § 6309(d). For dispositional hearing procedures, see Chapter Five.

Rule 500 – Summons and Notice of the Dispositional Hearing

A. Summons. The court shall issue a summons compelling the juvenile and the juvenile's guardian to appear for the dispositional hearing.

B. Notice. Notice of the Dispositional Hearing Shall be Given to:

1) the attorney for the Commonwealth;
2) the victim;
3) the juvenile's attorney;
4) the juvenile probation office; and
5) the educational decision maker, if applicable.

C. Requirements. The general summons and notice procedures of Rule 124 shall be followed.

Comment: Section 6335(a) of the Juvenile Act provides that the court shall direct the issuance of a summons to the juvenile, guardian, and any other persons as appears to the court to be proper and necessary for the proceedings. 42 Pa.C.S. § 6335(a). The attorney for the Commonwealth or its designee is to notify the victim of the date, time, place, and purpose of the dispositional hearing. *See* Victim's Bill of Rights, 18 P.S. § 11.201 et se*q*. Any persons may be subpoenaed to appear for the hearing. *See* Rule 123 and 42 Pa.C.S. § 6333. However, nothing in these rules requires the attendance of the victim unless subpoenaed.

Rule 512 – Dispositional Hearing

A. Manner of Hearing. The court shall conduct the dispositional hearing in an informal but orderly manner.

1) Evidence. The court shall receive any oral or written evidence from both the parties and juvenile probation officer that is helpful in determining disposition, including evidence that was not admissible in the adjudicatory hearing.
2) Opportunity to be Heard. Before deciding disposition, the court shall give the juvenile and the victim an opportunity to be heard.
3) Advanced Communication Technology. A court may utilize advanced communication technology pursuant to Rule 129 for the appearance of the juvenile or the witness only if the parties consent.
4) Prosecutor's Presence. The attorney for the Commonwealth shall attend the hearing.

B. Recording. The dispositional hearing shall be recorded.

C. Duties of the Court. The court shall determine on the record that the juvenile has been advised of the following:

1) the right to file a post-dispositional motion;
2) the right to file an appeal;
3) the time limits for a post-dispositional motion and appeal;
4) the right to counsel to prepare the motion and appeal;
5) the time limits within which the post-dispositional motion shall be decided; and
6) that issues raised before and during adjudication shall be deemed preserved for appeal whether or not the juvenile elects to file a post-dispositional motion.

D. Court's Findings. The court shall enter its findings and conclusions of law into the record and enter an order pursuant to Rule 515. On the record in open court, the court shall state:

1) its disposition;
2) the reasons for its disposition;
3) the terms, conditions, and limitations of the disposition; and

4) if the juvenile is removed from the home:

a) the name or type of any agency or institution that shall provide care, treatment, supervision, or rehabilitation of the juvenile, and

b) its findings and conclusions of law that formed the basis of its decision consistent with 42 Pa.C.S. §§ 6301 and 6352, including why the court found that the out-of-home placement ordered is the least restrictive type of placement that is consistent with the protection of the public and best suited to the juvenile's treatment, supervision, rehabilitation, and welfare;

5) whether any evaluations, tests, counseling, or treatments are necessary;

6) any findings necessary to ensure the stability and appropriateness of the juvenile's education, and when appropriate, the court shall appoint an educational decision maker pursuant to Rule 147; and

7) any findings necessary to identify, monitor, and address the juvenile's needs concerning health care and disability, if any, and if parental consent cannot be obtained, authorize evaluations and treatment needed.

Comment: Any persons may be subpoenaed to appear for the hearing. *See* Rule 123 and 42 Pa.C.S. § 6333. However, nothing in these rules requires the attendance of the victim unless subpoenaed. If the victim is not present, the victim is to be notified of the final outcome of the proceeding. *See* Victim's Bill of Rights, 18 P.S. §11.201*et seq*. Under paragraph (A)(2), prior to deciding disposition, the court is to give the victim an opportunity to submit an oral and/or written victim-impact statement if the victim so chooses. Before deciding disposition, the court may hear oral argument from the parties' attorneys. To the extent practicable, the judge or master that presided over the adjudicatory hearing for a juvenile should preside over the dispositional hearing for the same juvenile. Pursuant to paragraph (C), the court is to advise the juvenile of his or her appellate rights orally in the courtroom on the record. The court is to explain the right to retain private counsel or be appointed counsel for an appeal if a juvenile is without counsel. *See* 42 Pa.C.S. § 6337; *see also* Rule 150(B) for duration of counsel and Rule 151 for assignment of counsel. Pursuant to paragraph (D), when the court has determined the juvenile is in need of treatment, supervision, and rehabilitation, the court is to place its findings and conclusions of law on the record by announcing them orally in the courtroom, followed by written order. The court is to consider the following factors: a) the protection of the community; b) the treatment needs of the juvenile; c) the supervision needs of the juvenile; d) the development of competencies to enable the juvenile to become a responsible and productive member of the community; e) accountability for the offense(s) committed; and f) any other factors that the court deems appropriate. Nothing in this rule is intended to preclude the court from further explaining its findings in the dispositional order pursuant to Rule 515. Pursuant to paragraph (D)(4), when out-of-home placement is necessary, the court is to explain why the placement is the least restrictive type of placement that is consistent with the protection of the public and the rehabilitation needs of the child. *See* 42 Pa.C.S. § 6352.

Pursuant to paragraph (D)(6), the court should address the juvenile's educational needs. The court's order should address the right to: 1) an educational decision maker pursuant to Rule 147, 42 Pa.C.S. § 6301, 20 U.S.C. § 1439(a)(5), and 34 C.F.R. § 300.519; and 2) an appropriate education, including any necessary special education or remedial services, 24 P.S. §§ 13-1371, 13-1372, 55 Pa. Code § 3130.87, and 20 U.S.C. § 1400 *et seq*.

The court should also address the juvenile's needs concerning health care and disability. The court's order should address the right of: 1) a juvenile to receive timely and medically appropriate screenings and health care services, 55 Pa. Code § 3800.32 and 42 U.S.C. § 1396d(r); and 2) a juvenile with disabilities to receive necessary accommodations, 42 U.S.C. § 12132, 28 C.F.R. § 35.101 *et seq*., Section 504 of the Rehabilitation Act of 1973, *as amended*, 29 U.S.C. § 794, and implementing regulations at 45 C.F.R. § 84.1 *et seq*.

Pursuant to the Juvenile Act, the court has authority to order a physical or mental examination of a juvenile and medical or surgical treatment of a minor, who is suffering from a serious physical condition or illness which requires prompt treatment in the opinion of a physician. The court may order the treatment even if the guardians have not been given notice of the pending hearing, are not available, or without good cause inform the court that they do not consent to the treatment. 42 Pa.C.S. § 6339(b).

See Rule 127 for recording and transcribing of proceedings.

See Rule 136 for *ex parte* communications.

Rule 513 – Aids in Disposition

A. Social Study

1) The court may order the preparation of a social study in any case to aid in the decision for disposition.

2) If a social study is ordered, the study shall address any educational, health care, and disability needs of the juvenile.

B. Examinations. The court may order the juvenile to undergo health, psychological, psychiatric, drug and alcohol, or any other examination, as it deems appropriate to aid in the decision for disposition.

> **Comment:** Section 6341(e) of the Juvenile Act requires the court to receive reports and other evidence bearing on the disposition or need of treatment, supervision, or rehabilitation. In re McDonough, 430 A.2d 308 (Pa. Super. Ct. 1981).Paragraph (C) addresses a statement submitted by the victim to the court. For the victim's opportunity to be heard, see Rule 512(A)(2). See also Victim's Bill of Rights, 18 P.S. § 11.201 et seq.

Rule 600 – Summons and Notice of the Commitment Review, Dispositional Review, and Probation Revocation Hearing

A. Summons. The court shall issue a summons compelling the juvenile and the juvenile's guardian to appear for the commitment review, dispositional review, or probation revocation hearing.

B. Notice. Notice of the Hearing Shall be Given to:

1) the attorney for the Commonwealth;

2) the juvenile's attorney;

3) the juvenile probation office;

4) the placement facility staff, if the juvenile is in placement; and

5) the educational decision maker, if applicable**.**

C. Requirements. The general summons and notice procedures of Rule 124 shall be followed.

> **Comment:** Section 6335(a) of the Juvenile Act provides that the court shall direct the issuance of a summons to the juvenile, guardian, and any other persons as appears to the court to be proper and necessary for the proceedings. 42 Pa.C.S. § 6335(a). The attorney for the Commonwealth or its designee is to notify the victim of the date, time, place, and purpose of the dispositional and commitment review hearings. *See* Victim's Bill of Rights, 18 P.S. § 11.201 *et seq*. Any persons may be subpoenaed to appear for the hearing. *See* Rule 123 and 42 Pa.C.S. § 6333. However, nothing in these rules requires the attendance of the victim unless subpoenaed.

Rule 610 – Dispositional and Commitment Review

A. Dispositional Review Hearing. The court shall review its disposition and conduct dispositional review hearings for the purpose of ensuring that the juvenile is receiving necessary treatment and services and that the terms and conditions of the disposition are being met.

1) In all cases, the court shall conduct dispositional review hearings at least every six months.

2) In all cases, the juvenile shall appear in person at least once a year.

3) The court may schedule a review hearing at any time.

B. Change in Dispositional Order. Whenever there is a request for a change in the dispositional order, other than a motion to revoke probation as provided in Rule 612, notice and an opportunity to be heard shall be given to the parties and the victim.

1) The juvenile may be detained pending a court hearing.

2) A detention hearing shall be held within seventy-two hours of the juvenile's detention, if detained.

3) The juvenile shall be given a statement of reasons for the discharge from a placement facility or request for change in the dispositional order.

4) A review hearing shall be held within twenty days of the discharge from the placement facility or request for change in the dispositional order.

C. Advanced Communication Technology. A court may utilize advanced communication technology pursuant to Rule 129 for a juvenile or a witness unless good cause is shown otherwise.

Comment: At any hearing, if it is determined that the juvenile is in need of an educational decision maker, the court is to appoint an educational decision maker pursuant to Rule 147. Under paragraph (A), the court is to conduct dispositional review hearings as frequently as necessary to ensure that the juvenile is receiving necessary treatment and services and that the terms and conditions of the disposition are being met. *See* Rule 800. When conducting a dispositional review hearing, the court is to ensure that the disposition continues to provide 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. Nothing in this rule prohibits the juvenile from requesting an earlier review hearing. The juvenile may file a motion requesting a hearing when there is a need for change in treatment or services. Additionally, nothing in this rule is intended to prohibit the emergency transfer of a juvenile from a placement facility to a detention facility pending reconsideration of the dispositional order and this rule is not intended to preclude a motion for modification of a dispositional order after the juvenile has been detained. Under paragraph (B), *the attorney for the Commonwealth or its designee is to notify the victim of the date, time, place, and purpose of the review hearing. Prior to ordering the change in the dispositional order, the court is to give the victim an opportunity to submit an oral and/or written victim-impact statement if the victim so chooses*. *See* Victim's Bill of Rights, 18 P.S. § 11.201 *et seq*. Any persons may be subpoenaed to appear for the hearing. *See* Rule 123 and 42 Pa.C.S. § 6333. However, nothing in these rules requires the attendance of the victim unless subpoenaed. If the victim is not present, the victim is to be notified of the final outcome of the proceeding. Some placement facilities are hours away from the dispositional court. Paragraph (C) allows a hearing to be conducted via teleconferencing, two-way simultaneous audio-visual communication, or similar method. The juvenile is to be afforded all the same rights and privileges as if the hearing was held with all present in the courtroom. If a juvenile is detained or placed, the juvenile is to be placed in a detention facility or placement facility, which does not include a county jail or state prison. *See* Rule 120 and its *Comment* for definitions of "detention facility" and "placement facility."

Rule 612 – Modification or Revocation of Probation

A. Filing. A motion to modify or revoke probation shall be filed in accordance with Rule 345.

B. Time of Hearing on the Motion.

1) If the juvenile is detained, the hearing on the motion shall be held within ten days of the detention hearing.

2) If the juvenile is not detained, the hearing on the motion shall be held promptly**.**

C. Modification. If the court modifies the dispositional order, the court shall state the grounds for the modification and shall issue a new dispositional order in accordance with Rule 515.

D. Advanced Communication Technology. A court may utilize advanced communication technology pursuant to Rule 129 for a juvenile or a witness unless good cause is shown otherwise.

Comment: A juvenile should be afforded due process before probation can be revoked. Cf. Gagnon v. Scarpelli, 411 U.S. 778 (1973); Morrissey v. Brewer, 408 U.S. 471 (1972). A juvenile's probation cannot be revoked simply on the grounds of hearsay evidence. In re Davis, 586 A.2d 914 (Pa. 1991). If a juvenile is over the age of eighteen, under the age of twenty-one, and is alleged to have violated the terms of probation, the juvenile, if detained, is to be placed in a detention facility. See Rule 120 and its Comment for definitions of "detention facility," which does not include a county jail or state prison, and "juvenile," which includes a person who has attained ten years of age and is not yet twenty-one years of age who is alleged to have committed a delinquent act before reaching eighteen years of age or who is alleged to have violated the terms of juvenile probation prior to termination of juvenile court supervision.

Rule 631 – Termination of Court Supervision

A. Notice. The juvenile probation officer shall promptly notify the court when the conditions of probation have been satisfied. The court shall decide if supervision should be terminated. The notice shall set forth:

1) The juvenile has completed the terms of the court's dispositional order;

2) Restitution, fines, and costs have been paid in full; and
3) The juvenile has not committed any new offenses in which a criminal proceeding or proceeding governed by the Juvenile Act, 42 Pa.C.S. § 6301 et seq., may be commenced.

B. **Objection.** Any party may object to the notice under paragraph (A) and request a hearing. Such objection shall be made within thirty days of receipt of the notice; otherwise, objections are deemed waived.

C. **Hearing.** If objections have been made under paragraph (B), the court shall hold a hearing and give each party an opportunity to be heard before the court enters its final order.

D. **Termination.** When the requirements of paragraphs (A) through (C) have been met and the court is satisfied that the juvenile has carried out the terms of the dispositional order, the court may discharge the juvenile from its supervision.

Comment: For procedures on filing and service of the notice under paragraph (A), see Rule 345. For procedures on the dispositional order, see Rule 515. *See also*, 42 Pa.C.S. § 6352. If the attorney for the Commonwealth objects pursuant to paragraph (B), the court is to conduct a hearing on the motion. The attorney for the Commonwealth or its designee is to notify the victim of the date, time, place, and purpose of the hearing conducted pursuant to paragraph (C). The victim may be present at the hearing and is to be afforded the opportunity to submit an oral and/or written victim-impact statement. *See* Rule 132 and the Victim's Bill of Rights, 18 P.S. § 11.201 *et seq.* Any persons may be subpoenaed to appear for the hearing. *See* Rule 123 and 42 Pa.C.S. § 6333. However, nothing in these rules requires the attendance of the victim unless subpoenaed. If the victim is not present, the victim is to be notified of the final outcome of the proceeding. For collection of restitution, see 42 Pa.C.S. § 9728. *See* Rule 632 for early termination of court supervision by motion.

Rule 632 – Early Termination of Court Supervision by Motion

A. **Motion**. Any party may move for early termination of court supervision. The motion shall state with specificity why early termination is sought and why the requirements of Rule 631(A) have not been met.

B. **Notice.**
1) In addition to the service requirements of Rule 345, any party moving for early termination shall serve the motion on the juvenile probation officer.
2) The victim shall be provided notice of the motion for early termination of court supervision.

C. **Objection.**
1) A party or the juvenile probation officer may object to the motion under paragraph (A) and request a hearing.
2) Such objection shall be made within thirty days of the date of the motion; otherwise, objections are deemed waived.

D. **Court's Determination**. The court shall:
1) Rule on the motion and any objections without a hearing; or
2) Schedule a hearing.

E. **Hearing**. If objections have been made pursuant to paragraph (C) and/or the Court has determined a hearing is necessary, the court shall hold a hearing and give each party, the victim, and the juvenile probation officer an opportunity to be heard before the court enters its final order.

F. **Termination**. When the requirements of paragraphs (A) through (E) have been met and the court is satisfied that there are compelling reasons to discharge the juvenile prior to the completion of the requirements of Rule 631(A), the court may order an early discharge of the juvenile from its supervision.

Comment: If a party has moved for early termination of court supervision of a juvenile pursuant to paragraph (A) or the court has scheduled a hearing pursuant to paragraph (E), the attorney for the Commonwealth or its designee is to notify the victim of the motion for early termination and/or the date, time, place, and purpose

of the hearing. The victim may be present at the hearing and is to be afforded the opportunity to submit an oral and/or written victim-impact statement. *See* Rule 132 and the Victim's Bill of Rights, 18 P.S. § 11.201 *et seq*.

For the submission of victim-impact statements by victims of personal injury crimes prior to the release or transfer of a juvenile from a placement facility, see Victim's Bill of Rights, 18 P.S. § 11.201(8.1) (iii). Any persons may be subpoenaed to appear for the hearing. *See* Rule 123 and 42 Pa.C.S. § 6333. However, nothing in these rules requires the attendance of the victim unless subpoenaed. If the victim is not present, the victim is to be notified of the final outcome of the proceeding. For procedures on motions, see Rule 344. For filing and service requirements, see Rule 345. If all parties are in agreement with the termination, the court may terminate court supervision without a hearing. For procedures on the dispositional order, see Rule 515. *See also*, 42 Pa.C.S. § 6352. For collection of outstanding restitution regardless of court supervision status, see 42 Pa.C.S. § 9728.

Appendix C
Victim Service Programs in Pennsylvania

Listed below are the various types of programs in Pennsylvania that provide services to victims. While all of these programs may not exist in every county these are the general types of programs that you may find across the Commonwealth.

All programs are not the same and most have adapted their service delivery to the county in which they operate. Some programs have philosophical views based on their history that influence their operations. These same views have also influenced state laws that grant "absolute privilege" protecting the conversation between the counselor and the client. It is important to understand that this confidentially will not preclude collaboration with juvenile probation but it will preclude those agencies from disclosing information on who has accessed their services or details of any conversation. These laws were enacted to protect the victim.

It is important for juvenile probation officers to know what programs provide what services in their county and how to make a proper referral. Most programs provide services to victims whose cases have gone to the justice system as well as those where there has been no arrest.

Rape Crisis Centers – Provide 24 hour confidential crisis counseling, hospital, legal, and justice system accompaniment, counseling services for the survivor and their families, and prevention education programs in the community and schools. Pennsylvania law (42 Pa.C.S. § 5945) provides sexual assault counselors with absolute privilege. Absolute privilege renders the communication between the sexual assault counselor and the survivor confidential.

Domestic Violence Centers – Provide 24 hour confidential crisis counseling, legal and justice system accompaniment, shelter services, counseling services and prevention education programs in the community and schools. Pennsylvania law (23 Pa. C.S. § 6116) provides domestic violence counselors with absolute privilege. Absolute privilege renders communication between the domestic violence counselor and the survivor confidential.

Community Based Comprehensive Programs – Provide services to a variety of victims, including victims of violent crime such as homicide, robbery, aggravated assault, and all other violent and non-violent crimes, They provide advocacy, court accompaniment, crime victims compensation filing assistance, support groups, supportive counseling, information on justice system, referrals to other social services, and a variety of other services as determined by the local need. In some counties the community based comprehensive programs also serve as the rape crisis program.

Juvenile Probation Based Victim Assistance Officers and Staff – Several juvenile probation offices have assigned full time probation officers or full time staff as victim assistance coordinators who are responsible for delivery of notifications of victim rights and services, case management, referrals, assistance with victim impact statements, delivery of impact of crime classes for juveniles, and a variety of other direct services and prevention programs. In some counties juvenile probation offices have collaborated with local victim service programs to have community based victim service program staff working inside the probation office to deliver some or all of these services.

Police Based Victim Assistance Programs – Several counties have police officers assigned to provide information, notification, assistance and referrals to victims of crime. In some counties they are full time police officers; in other counties they are community based victim assistance staff who work inside the police department to provide services and support to victims.

Victim Witness Coordinators – These coordinators are usually system based and housed within the District Attorney's Office. Often they are responsible for the delivery of victim rights. Depending on the county need, these coordinators provide a variety of services to all crime victims, including court accompaniment, case status information, witness management, restitution assistance, supportive counseling, assistance with submission of victim impact statements, and other services that fill gaps in services in the county.

The Pennsylvania Office of the Victim Advocate (OVA) – Created by Act 8, of 1995. The Victim Advocate is nominated by the Governor and confirmed by the Senate to serve a term of six years. The Victim Advocate has the authority to represent the rights and interests crime victims of both adult and juvenile offenders. OVA's goal is to advocate for the improvement of the responsiveness of both the criminal and juvenile justice systems in Pennsylvania. OVA assists in providing post sentencing rights, notifications and input when offenders are under the jurisdiction of the Department of Corrections (DOC) or the Pennsylvania Board of Probation and Parole (PBPP) and are being considered for release back into the community.

Mothers Against Drunk Driving (MADD) – Founded by a mother whose daughter was killed by a drunk driver, Mothers Against Drunk Driving® (MADD) is the nation's largest nonprofit working to protect families from drunk driving and underage drinking. MADD also supports drunk and drugged driving victims and survivors at no charge, serving one person every 8.6 minutes through local MADD victim advocates.

Note:

To find a list of programs available in your county, the Pennsylvania Commission on Crime and Delinquency maintains a website with a map detailing programs operating each county. You can access this information by going to www.pcv.pccd.pa.gov .

Appendix D
Additional Resources

Promising Victim-Related Practices Fact Sheet Series
The American Probation and Parole Association (APPA), through funding from the U.S. Department of Justice, Office for Victims of Crime (OVC), is pleased to release a series of eight fact sheets on topics related to crime victims and victims' needs throughout the community corrections process. These fact sheets address a range of issues, including the role of community corrections in serving those victimized by crime, incorporating victim input into community supervision, victim notification, restitution collection and enforcement, family violence, and more. This series is designed to be used as a reference resource for professionals in probation, parole and other community justice settings as they work to enhance crime victim services.

1) The Role of Community Corrections in Victim Services
2) Collaboration and Partnerships for Victim Services in Community Corrections
3) Family Violence
4) Restitution and Other Legal Financial Obligations
5) Seeking Victim Input
6) Victim Information and Notification
7) Victim/Offender Programs
8) Workplace Violence

www.appa-net.org/eweb/DynamicPage.aspx?WebCode=VC_FreePubsReports

Promising Victim-Related Practices and Strategies in Probation and Parole
Identify the elements of exemplary victim-related probation and parole practices. This book will provide your agency with specific direction of the development and implementation of promising victim-related services and programs. This compendium is available to you at no cost from the Office for victims of Crime Resource Center (OVCRC) by calling 1-800-627-6872. Reference publication number NCJ 166606.
www.appa-net.org/eweb/docs/appa/pubs/PVRPSPP.pdf

Public Hearing on Victim Issues in Probation and Parole Recommendation Report
This report is based on testimony provided during a public hearing on victim issues in probation and parole, sponsored by the Office from Victims of Crime (OVC), at the American Association of Probation and Parole Annual Training Institute in Washington, DC on August 18, 2010. The report summarizes comments from the panel of crime victims and survivors and provides a list of 10 recommendations for improving services to crime victims and survivors throughout the community corrections process.
www.appa-net.org/eweb/docs/appa/pubs/PHVIPPRR.pdf

The Three "R"s of Reentry - Reparative Justice. Relationships. Responsibility
Currently there is a significant amount of attention focused on the large number of offenders who are being released from prison to communities across the country. Leadership and support from the U.S. Department of Justice Office of Justice Programs have created opportunities to discuss, plan and implement new strategies to more effectively deal with offenders who are going home. This white paper is intended to be just that: an opportunity to create a dialogue about offender reentry from a victim, family, and harm centered perspective.
www.appa-net.org/eweb/docs/appa/pubs/RRR.pdf

The Victim's Role in Offender Reentry: A Community Response Manual
Offers practical suggestions regarding how reentry partners can become involved in assisting victims whose offenders are released, or preparing to be released, to the community.
www.appa-net.org/eweb/docs/appa/pubs/VROR.pdf

Voice of the Victim: A *Perspectives* Spotlight Issue
With funding from the Office for Victims of Crime (OVC), American Association of Probation and Parole developed this special issue of its quarterly journal, Perspectives, to focus on topics specific to victim issues and services within community corrections. Topics addressed in this issue include, but are not necessarily limited to, reentry, victim awareness, victim impact, restitution, corrections-based sexual assault, technology and victim issues, and considerations for juvenile justice. A guest editorial from crime victim on her personal experience and recommendations for the field is also included.
www.appa-net.org/eweb/docs/appa/pubs/Perspectives_2012_Spotlight.pdf

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Additional copies of this publication are located on the websites
of the Juvenile Court Judges' Commission
www.jcjc.pa.gov
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