

Chapter 10

Probation and Placement Reviews, Nunc Pro Tunc Relief, and Termination of Court Supervision

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This Chapter treats disposition follow-up and review procedures, including probation revocations, routine placement reviews, modifications and transfers, home pass authorizations, case terminations and nunc pro tunc hearings.

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Key Statutes

- 42 Pa.C.S. §6324 (taking into custody for probation violation)
- 42 Pa.C.S. §6351 (disposition of dependent child)
- 42 Pa.C.S. §6352.1 (treatment records)
- 42 Pa.C.S. §6352.2 (interagency information sharing)
- 42 Pa.C.S. §6353 (limitation on and change in place of commitment)
- 42 Pa.C.S. §6358 (assessment of delinquent children by state sexual offenders assessment board)
- 42 Pa.C.S. Chapter 64 (court-ordered involuntary treatment of certain sexually violent persons)

- 42 Pa.C.S. § 9728 (collection of restitution, reparation, fees, costs, fines and penalties)
- 18 P.S. § 11.201 (personal injury victim’s right to submit comment or testify at disposition review, right to notice of and opportunity to object to transfers)
- 55 Pa. Code § 3800 et. seq.

Rules

- Rule 120, Pa.R.J.C.P. (definitions)
“Advanced Communication Technology”
“Educational Decision Maker”
“Service Provider”
- Rule 128, Pa.R.J.C.P. (Presence at Proceedings)
- Rule 129, Pa.R.J.C.P. (Appearance by Advanced Communication Technology)
- Rule 132, Pa.R.J.C.P. (Victim’s Presence)
- Rule 139, Pa.R.J.C.P. (Use of Restraints on the Juvenile)
- Rule 140, Pa.R.J.C.P. (Bench Warrants for Failure to Appear at Hearings)
- Rule 141, Pa.R.J.C.P. (Bench Warrants for Absconders)
- Rule 147, Pa.R.J.C.P. (Educational Decision Maker)
- Rule 240, Pa.R.J.C.P. (Detention of Juvenile)
- Rule 241, Pa.R.J.C.P. (Notice of Detention Hearing)
- Rule 242, Pa.R.J.C.P. (Detention Hearing)
- Rule 512(c), Pa.R.J.C.P. (Colloquy and Inquiry of Post-Dispositional Rights)
- Rule 515, Pa.R.J.C.P. (Dispositional Order)
- Rule 516, Pa.R.J.C.P. (Service of the Dispositional Order)
- Rule 600, Pa.R.J.C.P. (Summons and Notice of the Commitment Review, Dispositional Review, and Probation Revocation Hearing)
- Rule 605, Pa.R.J.C.P. (Detaining Juvenile for Modification of the Dispositional Order or Violation of Probation)
- Rule 610, Pa.R.J.C.P. (Dispositional and Commitment Review)
- Rule 612, Pa.R.J.C.P. (Modification or Revocation of Probation)
- Rule 620, Pa.R.J.C.P. (Post-Dispositional Motions)
- Rule 622, Pa.R.J.C.P. (Motion for *Nunc Pro Tunc* Relief)
- Rule 625, Pa.R.J.C.P. (Hearing and Findings on Motion for *Nunc Pro Tunc* Relief).
- Rule 628, Pa.R.J.C.P. (Order of Court on Motion for *Nunc Pro Tunc* Relief)
- Rule 630, Pa.R.J.C.P. (Loss of Court Jurisdiction)

- Rule 631, Pa.R.J.C.P. (Termination of Court Supervision)
- Rule 632, Pa.R.J.C.P. (Early Termination of Court Supervision by Motion)
- Rule 1608 D (1) (k), Pa.R.J.C.P. (Additional Findings for Shared Case Management Cases or Dually Adjudicated Youth)

JCJC Standards and Resources

- Disposition Review Hearing Checklist for Juvenile Judges/Hearing Officer (Revised 12/20/17)
- Dispositional Review Hearing Reference Guide for Juvenile Court Judges/Hearing Officer (Revised 12/20/17)
- General Practice Hearing Checklist for Juvenile Judges and Hearing Officer (Revised 12/20/17)
- JJSES Monograph entitled “Pennsylvania Juvenile Justice System Enhancement Strategy: Achieving Our Balanced and Restorative Justice Mission Through Evidence-Based Policy and Practice, April 2012 (JJSES Monograph 1)
- JJSES Monograph entitled “Advancing Balanced and Restorative Justice Through Pennsylvania’s Juvenile Justice Enhancement Strategy, November 2015 (JJSES Monograph 2)
- Home Passes to Delinquent Children in Placement
- Aftercare Services

§10-1 Probation and Placement Reviews, Nunc Pro Tunc Relief, and Termination of Court Supervision in General

The issuance of a disposition order does not terminate a juvenile court judge’s responsibility in a delinquency case. If the court has imposed restrictions or conditions such as restitution, treatment, or community service on the juvenile, it must stand ready to enforce them. If it has ordered evidence-based interventions, it must ensure that programs targeted to the juvenile's risks are provided. And if the court has caused the juvenile to be removed from his home and placed in a residential facility, it must actively oversee the monitoring of his rehabilitative progress and his safety and well-being. Planning for the juvenile’s successful return to the community must begin immediately, and attention must also be given to the juvenile’s educational needs, medical needs, and family contact. In general, a juvenile court judge must affirmatively monitor compliance with its disposition orders, in order to ensure that they accomplish their intended purposes.

This may mean giving priority—in scheduling and otherwise—to addressing probation violations or reviewing dispositions to ensure that the appropriate treatment is being provided. It may mean taking a keener and more skeptical interest in the assessments and reports of service providers regarding individual juveniles – raising more questions, recalling more individual circumstances, probing deeper should provider representatives seem to fall back on the same boilerplate language for youth after youth.

It may mean making the commitment to visit placement facilities used by the court to see first-hand how they are run and what they are like. But in the long run, it must mean being willing to participate in program planning and budgeting and to lead ongoing efforts to evaluate, expand, and improve the disposition options available to the court at the local and state level.

§10-2 Best Practices

- Although the court is only required to hold placement review or permanency hearings at least every six months, holding more frequent reviews keeps everyone accountable and helps to ensure the adequacy of plans for supervision, treatment, and discharge.¹
- The judge must allow enough time for these hearings. It is important for the court to receive sufficient information about the juvenile’s treatment plan and progress to determine whether the court’s disposition is accomplishing its intended purpose.
- The judge should make efforts to learn about all treatment providers used by the court and should, if possible, visit residential treatment providers.
- Judges should also be familiar with Department Human Services regulations issued under 55 Pa. Code Chapter 3800, which set forth minimum operational requirements and the rights of juveniles in residential and day treatment.² These regulations do not include quality of care standards.
- As in other kinds of hearings, the judge should commence disposition review hearings by introducing him or herself, identifying all persons in the courtroom, announcing the purpose of the hearing, and explaining the procedure that will be followed. Likewise, the judge should encourage the maximum participation of all concerned in the matter, and should take steps to ensure that the courtroom is a trauma-informed environment. (See § 8-10.)

- A representative of the treatment provider who is knowledgeable about the case plan and the juvenile’s progress should be present at the hearing.
 - The judge should utilize motivational interviewing in the courtroom.
 - The judge should always conduct the proceeding in a manner that emphasizes the juvenile’s strengths and accomplishments.
 - The judge must work to ensure that the family is involved in treatment, whether the child is in the community or placement.
 - Court orders should reflect the juvenile’s identified risks/needs and strengths and the evidence-based treatment available to address those risks/needs.
 - The judge should ensure that all hearing participants understand the final order and its justification.
 - The court should review the status of restitution and other financial obligations at each dispositional review hearing to ensure that progress is being made toward the payment of restitution and court fees
 - For youth who have been adjudicated both delinquent and dependent, holding joint delinquency dispositional reviews and dependency permanency hearings is a more efficient way to provide oversight.
 - A court-initiated conference or abbreviated hearing is an efficient way to address particular issues between regularly scheduled review hearings.
 - Motions provide the parties with access to the court between regularly scheduled hearings so that emergent issues needing the court’s attention can be addressed without crowding the court docket.

§10-3 Review Procedures

Chapter 6 of the Pennsylvania Rules of Juvenile Court Procedure, Parts A through D, governs all aspects of post-dispositional procedure.

- **Summons and notice.** The content, form, and service requirement applicable to summonses and notices generally (see § 7-7) also apply to a summons and notice of a commitment review, dispositional review, or probation revocation hearing.³ A summons must be issued to the juvenile and the juvenile’s guardian before any such

hearing, and the court must provide notice to the attorney for the Commonwealth, the juvenile’s attorney, the juvenile probation office, the placement facility (if the juvenile is in placement), and the educational decision maker, if applicable. The attorney for the Commonwealth or its designee must notify the victim of the time, place, and purpose of the hearing.⁴

- ***Detention pending review.*** The Rules authorize the detention of the juvenile in connection with the filing (or anticipated filing within **24 hours**) of a motion for modification of a dispositional order or a motion alleging a probation violation, subject to the general notice, time, and manner of hearing requirements applicable to detention generally.⁵

In such a case, a detention hearing—in which the court would be called upon to determine (1) whether there is probable cause for the modification of the violation of probation alleged and (2) if detention is warranted—must be held within **72 hours**.⁶

The disposition review or probation revocation hearing for a juvenile who is detained must be held within **10 days**, unless a further delay is caused by the juvenile or the juvenile’s attorney or is necessary to secure additional evidence.⁷

When a juvenile is detained after being unsuccessfully discharged from a placement, the hearing must be held within **20 days** of discharge.

The Rules do not preclude the emergency transfer of a juvenile from a placement to a detention facility.

A juvenile may not be placed in a county jail or state prison for a juvenile case, even if he is above the age of 18.

- ***Modification of dispositional order.*** Following the filing of a motion for modification of the dispositional order, or a discharge from a placement facility (which may include an emergency transfer to a detention facility pending reconsideration of the disposition), the juvenile must be given a statement of reasons for the motion for modification or discharge, and a review hearing must be held within **20 days**.
- ***Scheduling dispositional reviews.*** The court may schedule a hearing to review a disposition “at any time,” but must do so at least **every 6 months**. As a matter of good practice, dispositional review hearings should be held **every 90 days**, and more often where appropriate. This will help to ensure that rehabilitative progress

is being made, that changing needs are being addressed, and that adequate attention is being given to discharge planning and continuity of care. A juvenile may request an earlier review at any time, as well as a change in treatment or services.

- **Remote hearings.** If the parties agree, a review hearing for a juvenile in a remote facility may be conducted “by teleconferencing, two-way simultaneous audio-visual communication, or another similar method,” as long as the juvenile and the juvenile’s attorney are able to communicate confidentially prior to and during the hearing. **However, in all cases the juvenile must appear in person at least once a year unless good cause is shown.**⁸
- **Scope of Review.** Care must be taken to set expectations for the review in advance of the hearing. The court should hear from all interested parties and should ensure that the case plan addresses the criminogenic needs identified by the Youth Level of Service (YLS) risk/need assessment and builds on the juvenile’s strengths. In addition to the juvenile, counsel for the juvenile and the District Attorney, the court should hear from treatment providers, parents or guardians, the probation officer, the victim, and any guardian ad litem, child protective services worker or educational decision-maker who may be involved in the case. The areas to be covered may, include but are not limited to:
 - frequency and nature of probation contact
 - evidence-based treatment—type, frequency
 - any special conditions imposed by court: e.g. letter of apology, restitution, community service
 - behavior at home or frequency and nature of parental contact (visits, phone contact, home passes, etc.)
 - psychiatric treatment provided and any medications
 - dental and medical treatment
 - pro-social activities, including education (progress toward graduation, behavior in school), vocational training, employment
 - successes and any treatment/program/probation responses
 - setbacks or infractions and any treatment/program/probation responses
 - newly identified risks, needs or strengths, and plan to address
 - discharge planning
 - juvenile’s goals

For youth in placement, judges should be sure to inquire about family contact, including phone calls, visits, family therapy sessions, and home passes. Denial or limitations of visits and phone contacts should not be used as a disciplinary tool.

If it appears during the hearing that there is no family member to assist the juvenile in continuing schooling following placement, the court may appoint an educational decision-maker.⁹

- ***Victims' rights.*** Before a change in disposition is ordered, the court must give the victim an opportunity to give an oral and/or written victim impact statement. If not present, the victim must be notified of the final outcome of the proceeding.¹⁰ The victim must be notified in advance of home passes, community contact, and release.
- ***Colloquies concerning post-dispositional rights.*** If the juvenile is aggrieved by a change in a dispositional order, or whenever a more restrictive dispositional order is entered, the court must conduct a colloquy to satisfy itself that the juvenile is aware of all post-dispositional rights.¹¹ If a change in disposition results in an out-of-home placement, the court should explain the availability of expedited appellate review of the out-of-home placement pursuant to Pa. R.A.P. 1770.¹²

§10-4 Nunc Pro Tunc Hearings

A juvenile seeking retroactive correction of an earlier ruling may file a motion with the Clerk of Courts for ***nunc pro tunc*** relief.¹³ Such a motion must be filed as soon as possible, but no later than **60 days** after the error is made known.

A judge must assign new counsel if ineffective assistance of counsel is the basis of the claim. Rule 622C specifies the required contents of the motion. The Commonwealth may file an answer to the motion which must be filed within **10 days** of receipt of the motion pursuant to Rule 622D. The court may order the Commonwealth to file an answer within a time frame set by the court.

- ***Hearings.*** An evidentiary hearing must be conducted as soon as possible but no later than **30 days** after filing the motion unless the judge finds that good cause is shown to extend the time for investigation and preparation.
- ***Granting motion without a hearing.*** A judge may grant the motion without a hearing if sufficient facts exist in the record to warrant relief. The motion must be granted within **30 days** of the filing of the motion unless an extension is granted. A

court may grant relief on some issues and order a hearing on the other issues. Findings of fact and conclusions of law must be set forth in the order.

- **Summary dismissals.** The court must give notice to the parties of its intention to dismiss the motion without hearing, giving the reasons for dismissal. The court may order such dismissal if it concludes that no genuine issues exist concerning any material fact, that the juvenile is not entitled to relief, that or no purpose would be served by any further proceeding.

The juvenile may respond within **20 days** of the date of the notice. The judge may then order the motion dismissed, grant leave to file an amended motion, or direct that the proceedings continue. The court may also dismiss some issues while ordering a hearing on others. Findings of fact and conclusions of law must be set forth in the order. The order must also include a notice of the right to appeal and the time within which the appeal is to be taken.

A summary dismissal is also authorized if a judge determines that a motion involving the same issue or issues was previously filed by the juvenile and determined adversely to the juvenile.

- **Findings.** At the conclusion of the hearing the judge must state findings of fact and conclusions of law for all material issues raised on the record. The court must also issue an order denying relief or granting a specific form of relief.
- **Orders for Nunc Pro Tunc Relief.** The Court may issue *nunc pro tunc* relief as to:
 - the detention of the juvenile
 - whether a new adjudicatory hearing is granted
 - correction of the adjudication of delinquency
 - correction of the disposition
 - termination of court supervision and/or
 - other matters that are appropriate

The order is required to include a statement of the right to appeal from the final order disposing of the *nunc pro tunc* motion and the time limit within which the appeal must be taken.

- **Denial by Operation of Law.** If a judge fails to decide a motion or grant an extension within **30 days**, the motion will be deemed denied by operation of law and it will not be subject to reconsideration. The clerk of courts is required to enter an order declaring that the motion is denied by operation of law pursuant to Rule

625(E) and advising the juvenile of the right to appeal and the time within which the appeal is to be taken.

§10-5 Probation Monitoring and Enforcement

The court should take the following steps to ensure that probation is an effective disposition:

- ***Stick to a limited number of firm, enforceable, pertinent conditions.*** As has already been noted (see § 9-8), one basic error many courts make is to impose a long list of “standard” conditions and restrictions as part of every probation disposition – inevitably including some that are meaningless, some that are unsuitable, and some that will get no enforcement priority at all. The better practice is to specify concrete, individualized goals related to community protection, accountability, and competency development. The focus should be on monitoring progress toward those goals. Before the hearing ends, the court should satisfy itself that the juvenile understands what he is required to do.
- ***Clearly explain the positive consequences of following the court’s order and the negative consequences of violating it.*** This may mean taking extra time at the conclusion of the disposition hearing to explain the consequences of compliance or noncompliance to the juvenile and his family, rather than leaving it to the probation department.
- ***Acknowledge and recognize progress and pro-social behaviors and strengths.*** Courts must give significant attention to positive behaviors and strengths to ensure that these behaviors continue. Pro-social behaviors are promoted through recognition, acknowledgement and affirmation. Research shows that greater use of rewards and incentives as opposed to sanctions is more likely to improve offender motivation to change. Effective rewards include written notes, public praise and acknowledgement as well as lessened control, including fewer drug tests or earlier discharge from supervision.
- ***Understand the reasons for noncompliance before responding.*** Juveniles who violate probation conditions—missing restitution payments, skipping appointments—may be sending signals; where possible, judges should make some effort to find out what the signals might mean. Inquiry should be made about observed behaviors in all areas of the juvenile’s life as well as any changes in circumstances, significant

life events or anniversaries. This may also mean ordering further mental health or drug and alcohol evaluations.

Use a graduated approach to sanctioning. It is not practical or even desirable to respond to every infraction with probation revocation or institutionalization. Every jurisdiction should have a continuum of intermediate sanctions for probation violations—additional essays, community service, earlier curfews, and stricter levels of supervision—that can be gradually increased in intensity as infractions continue. Sanctions for non-

compliance should be determined in advance. Sanctions for juveniles who violate terms of supervision should be administered in accordance with research-informed policy developed to maximize their results.

To be effective, sanctions should be certain, swift, and proportionate.

Based on research, overly harsh responses to unacceptable behavior can actually be counterproductive to the desired result. An effective graduated sanction policy is one that clearly defines desired behaviors and consequences of behaviors.

Delineated sanctions should be administered equitably for greater effect. A structured sanctioning response to behavior also aids in promoting consistency among staff.¹⁴

- ***Use care when imposing community service as a sanction.*** Community service is an excellent way for courts to help juveniles develop competencies and become incorporated into the fabric of the community. However, imposition of community service as a punishment may discourage juveniles from participating in community service in the future. If community service is imposed as a sanction it should be meaningful and directly related to the harm caused by the infraction. The court should explain the reasons for its order.
- ***Develop a uniform sanction and reward policy.*** The administrative judge should lead discussions on a local level to develop a sanction and reward policy that ensures consistent decisions by juvenile probation officers, juvenile court hearing officers and judges.

§10-6 Probation Modification and Revocation

In general, when presented with a request to modify or revoke probation as a result of a juvenile's noncompliance, courts should opt for modification rather than revocation for less severe infractions. The response to behavioral health issues and/or drug and alcohol use should in most cases be an assessment, evaluation, or review to determine whether the treatment plan should be modified. More broadly, as noted above, the court should not have to choose between punishing every instance of noncompliance with revocation or ignoring it entirely. An array of swift and certain sanctions, proportional to various offense levels and progressively increasing in seriousness, should be available to choose from – with revocation and institutional commitment at the end of the line.

- **Initiation of Modification or Violation.** A motion to modify or revoke probation must be filed in accordance with the filing and service requirements applicable to motions in delinquency cases generally. (See § 7-6).¹⁵
- **Detention.** A juvenile may be detained in connection with the filing (or the anticipated filing within **24 hours**) of a motion to modify or revoke probation. If the juvenile is detained, the hearing on the proposed modification or revocation must be held within **10 days** of the detention hearing (which in turn must have been held within **72 hours** of the initial detention). If the juvenile is not detained, the hearing on must be held “promptly.”¹⁶
- **Modification and Violation Hearings.** While neither the Juvenile Act nor the Rules contain any further guidance regarding the conduct of modification/revocation hearings, the U.S. Supreme Court has held that due process requires that the defendant in a probation or parole revocation proceeding be given an opportunity to present evidence, to confront and cross-examine witnesses, and to show that, even if a violation occurred, the circumstances do not warrant revocation. A juvenile should be advised of these rights on the record before any admission to a violation is accepted.

Victims must be afforded be opportunity to be heard at any violation hearing.

If the court grants the motion to modify/revoke, it must state the grounds for the modification and issue another dispositional order setting forth the new terms and conditions in accordance with Rule 515.¹⁷

A colloquy and inquiry of post-dispositional rights (See Rule 512 C) must be conducted whenever a juvenile is aggrieved by a change in the dispositional order. If a juvenile's probation is revoked and out-of-home placement is ordered, the court

must also explain to the juvenile the availability of review of the placement pursuant to Pa.R.A.P. 1770.¹⁸

§ 10-7 Monitoring and Planning for the Return of Juveniles in Placement

Once a juvenile enters residential placement pursuant to a dispositional order, the Juvenile Act and the Rules require that courts monitor and review the placement by conducting regular review hearings. The purpose of these hearings is to ensure that the juvenile is receiving necessary treatment and services, that the conditions of the disposition are being met, and that placement continues to be necessary.¹⁹

Courts must actively monitor the rehabilitative progress of juveniles in placement.

Ideally, a treatment plan or individual service plan (ISP) should be developed for the juvenile within **the first 30 days** of placement. The ISP should clearly define the treatment objectives and the services, programs and treatment to assist the juvenile in meeting these objectives.

The ISP should be connected to the mission of “balanced and restorative justice”, and treatment objectives should address community safety and protection, victim awareness and accountability, and competency development. The ISP should also address the criminogenic needs identified in the Youth Level of Service/Case Management Inventory (YLS).

Although an ISP will usually be developed within the first 30 days of placement, it is important to remember that the ISP is a working document, which should be flexible enough to address the changing needs and circumstances of the juvenile.

At each placement review hearing, the court should carefully review the treatment plan to ensure that it is connected to the identified rehabilitative needs of the juvenile. The court should also ensure that the ISP is revised, when necessary, to meet the needs of the juvenile and that the juvenile is moving towards discharge.

Well-run courts use opportunities presented by placement review hearings to oversee treatment plan development, and to ensure that plans focus on reducing assessed risk factors that will have the greatest impact on recidivism, emphasize strengths, identify triggers, and customized to reflect the juvenile’s culture, gender, language, disabilities and mental health.²⁰ Routine review hearings also afford opportunities to measure the rehabilitative progress of the juvenile in placement, to review the necessity of continued

placement, to address any obstacles that may still stand in the way of a return to the community, and to ensure that there is a workable reintegration plan in place.

Timing of Placement Reviews

- ***Routine placement reviews.*** When a juvenile is in placement the court must hold a placement review hearing (sometimes referred to as a commitment review hearing) at least **every 6 months**. The juvenile must **appear in court at least once a year**.²¹ These should be regarded as minimum requirements; good practice may require more frequent hearings, in order to increase judicial oversight and hold all parties accountable. In particular, an initial review hearing within 3 months of placement affords a good opportunity to ensure that the right services are in place and to “tweak” the treatment plan if necessary.
- ***Permanency hearings.*** For dependent children who have been adjudicated delinquent (“dually adjudicated youth”) and who are in court-ordered placement, the court must also hold a permanency hearing pursuant to Rules 1607 & 1608 at least **every 6 months**. The 6-month review is required to ensure federal funding under Title IV-E of the Social Security Act. (See Chapter 3.) The juvenile must appear in court at least every 6 months.
- ***Extension/modification hearings.*** The court must hold a hearing whenever there is a request to extend or modify a placement order “in order to effectuate the original purpose for which the order was entered.”²² The hearing must be held within **20 days** of a request for a change in the dispositional order.²³
- ***Facility transfer hearings.*** Whenever an institution holding a placed juvenile seeks to transfer the juvenile to a more secure facility the committing court must hold a hearing on the proposed transfer. Likewise, when a secure institution gives notice that a juvenile’s progress warrants a transfer to a less secure facility, and either the committing court or the Commonwealth objects, the court must hold a hearing on the propriety of the transfer. If, after a hearing, the court modifies disposition or enters a new disposition which transfers the juvenile to a more secure placement, a colloquy and inquiry of post-dispositional rights (See Rule 512 C) must be conducted.²⁴

Dually Adjudicated Youth

For youth who have been adjudicated both dependent and delinquent (“dually adjudicated youth”), holding joint delinquency dispositional reviews and dependency permanency

hearings is a more efficient way to provide oversight. Dual hearings enable the court to more clearly define the responsibilities of the probation department and the child welfare agency and can help streamline services and prevent a duplication of services and inconsistent treatment plans. It can also lead to a smoother transition from placement to the community. Remember to allow more time for these hearings as more attorneys will be involved and more witnesses will likely testify.

Addressing Emergent Issues

It is important that courts overseeing placement have flexible mechanisms for dealing with urgent issues that arise between regularly scheduled review hearings. The status review hearing is one efficient way to resolve such issues between the regularly scheduled hearings. It is not necessary for the probation department or the provider to submit a complete report at the status review hearing.

Motions also provide an effective way to address issues that need to be brought to the court's attention between placement review hearings. Motions provide the parties with access to the court between regularly scheduled hearings and issues can be addressed without crowding the court docket.

Dispositional Review Issues

In addressing the issues to be determined at a dispositional review hearing, the court should consider the "balanced and restorative justice" mission of Pennsylvania's juvenile justice system and the application of the JJSES to this mission (see Chapter 2). In particular, the court should continue to review the case plan development, which should have been initiated at the time of disposition or upon admission to placement.

At dispositional review hearings, juvenile court judges should have basic questions for all of the principal parties.

Questions for the Service Provider

Community Safety and Protection:

- What assessments have been performed?
- Are you aware of the criminogenic needs identified in the YLS? How is the treatment plan addressing these needs?
- What services is the juvenile receiving? Why?
- Is the juvenile responsive to treatment?

- Is the juvenile making progress?
- Has the juvenile exhibited any concerning behaviors?
- Is the juvenile taking medication? Is so, why and how has the juvenile responded to the medication?
- What contact has the juvenile had with family members or other supports?
- Are the parents invested in the treatment plan? Have they had the opportunity to visit the program?
- Describe the interaction of the juvenile with the family? Are there any safety concerns that might warrant a referral to C&Y?
- Has the juvenile had home visitation. If not, why? Was the home visitation successful?
- Has a relapse prevention plan been developed? What is the plan?

Accountability:

- Is there any opportunity to complete community service or earn money to pay restitution?
- Has the juvenile completed an impact of crime program?
- Has the juvenile gained insight into his offending (empathy)?

Competency Development:

- Where does the juvenile attend school? Does he have an IEP? What grade level or grade is the juvenile in? What classes is he taking, what are his grades and what progress is he making towards graduation?
- Is the appointment of an Educational Decision Maker necessary?²⁵
- Is the juvenile engaged in any vocational programs?
- Is the juvenile receiving other independent living services?
- Is the juvenile engaged in any extracurricular activities (on grounds or off grounds)?

Other:

- What are the strengths of the juvenile? What are the challenges?
- What are the strengths of the family? What are the challenges?

- Does the juvenile have any special medical, physical or mental health needs?
- Is the juvenile receiving any therapeutic services or prescribed any medications?
- Is the provider using Evidenced-Based Programming?

Questions for the Probation Department

- How do the interventions/services address the criminogenic needs identified in the YLS?
- Describe the progress made in achieving the goals set forth in the case plan.
- How much contact with the juvenile since the last hearing?
- How much contact with the juvenile's family?
- What are the strengths of the juvenile and his family? What are the challenges?
- What steps are being taken to prepare the family for return?
- Have there been home passes? If so, were they successful?
- Is there adequate family support and structure for this juvenile?
- Who is helpful or harmful in the juvenile's life?
- Are there any safety concerns that might warrant a referral to C&Y?
- What is the discharge goal?
- What is the plan for education or employment?

Questions for the Juvenile

- Do you feel safe?
- What are your goals/plans?
- Describe your strengths.
- What are your challenges?
- What progress have you made? How do you feel about the progress that you have made?
- Do you feel that the treatment and services are helping you? Why or why not?
- Are you taking any medications? What medications? How do they make you feel?

- What have you learned in this program?
- What changes have you made and will you make when you are discharged?
- What would you like the court to order today?

Questions for the family

- Have you had an opportunity to visit the program? How do you feel about the program and the services that your child is receiving?
- Do you understand the treatment and services that your child is receiving and why?
- What contact have you had with the probation officer and the providers?
- If there has been home visitation, how did it go?
- Do you have any concerns with the safety of your child?
- Are you in agreement with the recommendations of the provider and/or the probation officer? If not, what would you like the court to order today?
- If recommended, are you willing to engage in family therapy with your child or accept services in your home?
- Do you understand the services that your child is receiving?
- Are you aware of the medication that your child is prescribed? Do you know why? Do you have any concerns about the medication?

Disposition Review for Dually Adjudicated Youth

In addition to ensuring that the juvenile is receiving necessary treatment and services and that the conditions of the disposition are being met, the court must explore additional issues and make additional findings in cases involving “dually adjudicated” or “shared case responsibility” youth in placement. In general, the purpose of a “permanency hearing” in a dependency case is to review the child’s permanency plan, the date by which the permanency goal might be achieved, and whether the placement continues to be best suited to the safety, protection, and welfare of the child.²⁶ Accordingly, in review hearings involving dually adjudicated youth, the court must make these additional inquiries:

- What is the permanency plan? What is the likely date that the plan will be achieved?
- Is the permanency plan appropriate?
- Did the agency make reasonable efforts to finalize the permanency plan?

- What are the views of the juvenile?
- For juveniles 14 years of age and older, what are the necessary services to transition to successful adulthood?
- For juveniles 14 years of age and older, is the juvenile making progress towards graduation?
- For juveniles 14 years of age and older, is the juvenile placed in the least-restrictive setting that will enable him to develop independent living skills?
- For juveniles 14 years of age and older, what efforts have been made to develop and maintain connections with supportive adults regardless of placement type?
- For juveniles 14 years of age and older, what job readiness services have been provided and what employment/career goals have been established?
- For juveniles 14 years of age and older, are there any physical or behavioral health needs that will require continued services into adulthood?
- For juveniles 14 years of age and older, what steps are being taken to ensure that the juvenile will have stable housing when discharged from care?
- For juveniles 18 years of age and older, what is the reason for continued jurisdiction of the court?
- Did the agency take sufficient steps to ensure the reasonable prudent parent standard?
- Did the agency take sufficient steps to ensure that the juvenile is engaging in age-appropriate activities?
- If the permanency plan is “Another Planned Permanent Living Arrangement” (APPLA), the court must make the APPLA findings required by Pa. R.J.C.P. 1608 D (2).

Victim Input

Prior to the adoption of the Rules, the Crime Victims Act gave victims of personal injury crimes the right to be notified of disposition review hearings at their request, to submit written comment or present oral testimony at such hearings, and to have their views considered by the court.²⁷ The law also guaranteed any personal injury crime victim who requests it the right to receive prior notice and submit a written objection whenever the

transfer or release of a juvenile offender is proposed that is contrary to a previous court order or placement plan approved a dispositional review hearing.²⁸

However, the Rules have essentially expanded these rights to the victims of all juveniles who are subject to dispositional review proceedings. The attorney for the Commonwealth or designee is to notify the victim of the date, time, place and purpose of every dispositional review hearing. 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 must be given to all parties and the victim. Prior to ordering a change in the disposition, the court is to give the victim the opportunity to submit an oral and/or written victim impact statement if the victim so chooses.²⁹

At hearings in which victims are present, the judge should welcome them and solicit their full participation using the basic techniques that have already been described in connection with disposition hearings. (See "Victim Input at Disposition," §9-6.)

If the victim is not present and no impact statement has been presented, it is the responsibility of the court to inquire whether the victim requested advance notice of the hearings, and if so, whether notice was provided, whether efforts were made to solicit written input and whether assistance was offered, etc., and whether the victim's position is known by any person at the hearing. If the victim is not present, the victim is to be notified of the final outcome of the proceeding. In counties that receive funding from the Victims of Juvenile Offenders Program (VOJO) administered by the Pennsylvania Commission on Crime and Delinquency, these duties should be entrusted to the Victim/Witness Coordinator.

In dispositional review decision-making, regardless of whether the victim has provided input, the judge must carefully consider the nature of the offense and its impact on the victim in determining what is needed to render the juvenile accountable and what measures may be necessary to protect the safety of the public.

Aftercare/Reentry Planning

Aftercare or re-entry services for committed juveniles represent an attempt to build a bridge between the institutional and community environments, so as to help assure the successful transition from residential placement to life in the community. While aftercare approaches vary, any well-designed strategy will feature some combination of (1) *preparatory planning* during placement; (2) *transitioning* from the residential facility to the community, perhaps including some testing of the juvenile's readiness through home visits

and other brief excursions outside the walls; and (3) *post-release supervision and services* designed to help the juvenile safely adjust and reintegrate into the community.

Pennsylvania is among the very small handful of states that grant local juvenile court judges authority over every phase of the juvenile commitment process, including the initial placement decision, ongoing commitment review, timing and terms of release, and post-release supervision—which means the juvenile court judge is the key figure in the aftercare planning process here—setting it in motion at the time of disposition, ensuring that it is on track at subsequent reviews, and verifying at the time of release that the necessary groundwork for a successful reentry has been done.

To fulfill these responsibilities, the judge should:

- ***Be familiar with programs and services.*** Ideally, judges should visit the residential facilities to which the court commits juveniles, and meet the people who operate them. This is by far the best practice. However, if it is not possible for judge to visit the programs, judges should insist that probation staff do so, and that they regularly report to the court regarding what they see. Judges should also be familiar with other services or programs that they must use for reentry or aftercare. Ideally, judges should not order services or programs with which they are not familiar.

It is important for judges to have knowledge of what services are being offered by a provider and what populations are best served by particular programs. Where it is necessary to make use of a program for the first time, the judge should do research about the program or speak with other judges who have used it.

Judges must learn from dispositional successes and failures, and keep track of who has thrived in particular placements and who hasn't, and what has made the difference. As necessary, judges should take a leadership role when it appears change or expansion in the existing continuum of dispositional options is required.

- ***Set clear expectations at disposition for the juvenile, the probation department and the placement facility.*** Placement should be seen as a period of intensive preparation for post-placement life in the community. In other words, there is work to be done, and everyone involved must understand this. The juvenile and the juvenile's attorney need to know what the court expects in the way of participation in treatment and counseling, education, restitution, community, service, etc.—both the scope of the work and the way it relates to a successful return home. Placement facility staff must be informed of specific conditions and goals the court is setting for the juvenile's placement, as well as ongoing information and reporting responsibilities. Juvenile probation staff must also

understand their responsibilities with respect to collaborating with placement staff in planning, maintaining frequent contact with the juvenile during the placement phase, staying in touch with the juvenile's family, and making sure that post-placement services and supports are lined up and ready when the juvenile needs them.

- ***Ensure that the juvenile probation department collaborates with residential treatment staff in planning.*** One of the primary targets of Pennsylvania's efforts to improve aftercare statewide is the frequent disconnect between residential treatment programming and aftercare planning. (See sidebar, "17 Principles of a Comprehensive Aftercare System.") Whenever a youth is ordered into placement, facility staff are required by DHS regulations to draw up a written "Individual Service Plan (ISP)" for the youth during the first 30 days.³⁰ Because they often lack input from juvenile probation, however, these plans tend to focus primarily on institutional expectations. Even when they are appropriately individualized, these plans may have very little connection with real-life expectations for the youth upon his return to the community.

In order to ensure that the placement phase is as productive a preparation for post-institutional life as possible, the court should use its authority to see that the juvenile probation department is participating in a coordinated planning process—contributing information on the juvenile's background and needs (YLS assessment, copies of reports from psychological or psychological assessments, school records, information on physical health and medications, information on family members and supports, etc.), making clear what the post-release expectations are, and helping to develop a single joint plan that integrates both institutional treatment and aftercare services, which can be refined as the juvenile nears release.

In reviewing the adequacy of aftercare plans, the court should look for the use of skill-building and tools such as modeling, reinforcement, and role-playing; cognitive behavioral interventions, which are designed to restructure problematic thinking patterns and attitudes; and evidence-based programming and interventions.³¹

- ***Ensure that the juvenile probation department visits juveniles in placement regularly.*** Again, the court's authority is needed to enforce the expectation that juvenile probation officers make regular trips to placement facilities, meeting privately with juveniles on their caseloads as well as treatment and program staff, and contributing their views at release staffings. This has always been good probation practice. The JCJC Standards Governing Aftercare Services, which spell out what judges should generally expect of probation departments in the way of aftercare planning and services, call for

monthly probation officer visits to facilities, both to monitor the juvenile's progress and to confer with the facility's staff.³²

- ***Conduct meaningful dispositional review hearings.*** A detailed substantive dispositional review hearing is what ultimately drives good aftercare planning. The dispositional review hearing is the one forum in which all the parties are assembled and answerable to the hearing is the one forum in which all the parties are assembled and answerable to the court regarding the progress that is being made toward the ultimate goal of successful reintegration.

It is essential, in scheduling these cases, that judges allow sufficient time to make the detailed inquiries and determinations that are required. As explained in detail above, judges should have basic questions at each dispositional review hearing for probation staff, residential treatment staff, the juvenile, the parents or caregivers, and others, in order to assess progress in achieving established goals and the quality of the aftercare plan.

Judges should explain expectations and reasons on the record and make sure that all concerned understand what is expected of them and why. Invite the parties to ask questions about what has been or will be ordered.

At every hearing, the court should discuss the discharge plan to ensure that the providers are working towards discharge. The discharge plan should be implemented upon entry into placement, but should be a "work in progress," taking into account the progress made, any changes in family situation, and the juvenile's desires.

The court should consider ordering the re-administration of the YLS prior to discharge to determine whether the criminogenic needs have been sufficiently addressed. If a program has been analyzed under the Standardized Program Evaluation Protocol (SPEP), before releasing a juvenile from residential placement or from a program, the court should determine whether the juvenile was placed in the right program; whether the services provided were implemented with fidelity, and addressed criminogenic needs; and whether the juvenile received the right "dosage" of these services.³³

- ***Enter sufficiently detailed court orders.*** Judges must enter court orders that are sufficiently detailed to provide clear direction to probation, residential treatment staff, the juvenile and his parents or caregivers, and when applicable, the Children and Youth caseworker, regarding the aftercare plan and its implementation.

A good court order should clearly set forth the findings of fact that support the court's decisions. It should include the strengths and accomplishments of the parties. It should also clearly set forth the expectations of the court, and be written in plain language so that most people (assuming a 5th grade reading level) can understand it.

- ***Ensure that juveniles return from placement with necessary documentation and a supportive adult.*** The court should ensure that juveniles discharged from placement have all necessary documentation (birth certificate, social security card, state I.D.) and a least one named supportive adult. This is especially important for juveniles who will not return home upon discharge from placement.

Transition from Placement to Home

In most cases, juveniles in residential placement, especially secure placement, present a higher risk to the safety of the community as well as higher risk to recidivate. Most placement facilities provide a high level of structure and supervision that many of the juveniles have not experienced prior to entering placement. Accordingly, it is important to consider incremental decreases in the levels of supervision before returning a juvenile to home and community and before termination of supervision. This is particularly true for juveniles in secure placement and for juveniles in residential sex offender treatment programs.

Home Passes

Home passes are critical to the successful transition of a highly structured setting of residential programs to home, where there may be little or no structure or supervision. Home passes afford the court an opportunity to assess the capacity of the parents or guardians to provide appropriate structure and supervision; to identify issues in the community or in the juvenile's family relationships that might complicate reunification; and to determine what services are necessary to increase the probability of successful return home.

The JCJC Standards Governing Home Passes to Delinquent Children in Placement ³⁴ lay out detailed procedures that should be adopted for authorizing and arranging short-term home visits for committed juveniles. While such visits are essential to an orderly transition from institutionalization to freedom and responsibility, home passes should be granted only with due consideration and appropriate safeguards for the public and advance notification to any victim who has requested it.³⁵

Prior to the first home pass, the provider and the probation department should meet with the juvenile and the caregivers to set clear expectations, goals, and objectives for the home pass (curfew, hanging out with friends, activities, therapy, etc.)

Providing Post-Placement Support to the Juvenile as a Dependent Child

Finally, if a juvenile in residential placement or under supervision has satisfied treatment goals and remains in placement or under supervision because there is no safe and appropriate family member or discharge resource, then consideration should be given to making a referral to the county children and youth agency for the filing of a dependency petition. A juvenile who has successfully achieved treatment goals and met the conditions of supervision should not remain under supervision as a delinquent child merely because he does not have a place to live. Affording dependency services in such a case removes the stigma associated with being on probation, allows the court to close the delinquency matter, and may allow the juvenile's delinquency record to be expunged at an earlier date.

Even if the county children and youth agency is not receptive to filing dependency petitions in such cases, the court should be aware that the Dependency Rules provide that any person (i.e. the juvenile's counsel or juvenile probation officer) can file an application with the court to file a dependency petition.³⁶ If such an application is filed, the court must conduct a hearing within **14 days** to determine if there are sufficient facts alleged to support a petition of dependency; and whether the person applying for the petition is a proper party to the proceedings.³⁷

SIDEBAR

17 Principles of a Comprehensive Aftercare System

A broad-based effort to improve aftercare—featuring enhanced statewide monitoring and technical assistance, policy coordination, and a variety of pilot experiments at the county level—was undertaken between 2004 and 2010 as a component of Pennsylvania’s *Models for Change* partnership with the John D. and Catherine T. MacArthur Foundation. As part of this work, the Pennsylvania Commission on Crime and Delinquency, the Juvenile Court Judges’ Commission, the Pennsylvania Council of Chief Juvenile Probation Officers, and the Pennsylvania Departments of Public Welfare (now Human Services) and Education committed to the following joint statement of the principles of a comprehensive aftercare system:

1. Aftercare begins at disposition and is tailored to the individual needs and capacities of each youth.
2. Juvenile probation officers and residential treatment staff collaborate on a single plan, developed within 30 days of placement, which integrates treatment and aftercare services, including appropriate education placements and goals developed in consultation with the appropriate school district.
3. Juvenile probation officers, in cooperation with residential treatment staff, host school district representatives and resident school district representatives, refine the plan as youths move closer to leaving the facility to include post-release provisions that establish the services to be provided and planned conditions of supervision.
4. There is systematic oversight to ensure that placement facilities link their “supervision, care and rehabilitation” within the facility to the plan for treatment and supervision in the community.
5. “Competency development” is a key, well-defined part of residential treatment and of post-placement expectations.
6. Juvenile court judges, at disposition review hearings, routinely inquire about a youth’s aftercare plan, and enter court orders, in anticipation of discharge, that are sufficiently detailed to give direction to probation officers or treatment staff.
7. Juvenile court judges and juvenile probation officers further the principles set forth in the Juvenile Court Judges’ Commission Standards Governing Aftercare Services.

8. Juvenile defenders and prosecutors attend all disposition review hearings
9. Juvenile defenders visit their clients in placement.
10. Upon their request, the views of crime victims are invited and considered in aftercare planning and at dispositional review hearings.
11. The aftercare plan addresses the youth's activities related to accountability to the victim and community.
12. All probation officers have the skills to fulfill their obligations as monitors as well as planners for re-entry and supporters of youth who have left residential care.
13. Intensity of supervision is proportionate to the risks and needs of delinquent youth.
14. County children and youth agencies keep their doors, and cases open to youths who entered the delinquency system from the child welfare system and who should be receiving foster care and other services as "dependent children" upon release from a residential facility.
15. In appropriate cases, county children and youth agencies support the petitions of delinquent youth to be adjudicated dependent children prior to their 18th birthdays.
16. Resident school districts promptly enroll all youth who wish to return to public school, working with the host school district and juvenile probation to ensure a seamless transition to an appropriate setting.
17. Evidence-based prevention programs, such as the Blueprints for Violence Prevention, are considered for use as post-discharge services.

END SIDEBAR

§ 10-8 Special Disposition Review Procedures for Juveniles Committed to Placement for Specified Acts of Sexual Violence

Juveniles committed to placement following adjudication for certain sex offenses may be subject to special disposition review procedures, pursuant to a law providing a civil commitment alternative to discharge at age 21 for “sexually violent delinquent children” in need of continued involuntary treatment.³⁸

The procedure applies to any juvenile who:

1. has been found to be delinquent for an act of sexual violence which if committed by an adult would be a violation of 18 Pa.C.S. § 3121 (relating to rape), 3123 (relating to involuntary deviate sexual intercourse), 3124.1 (relating to sexual assault), 3125 (relating to aggravated indecent assault), 3126 (relating to indecent assault) or 4302 (relating to incest);
2. who is committed to an institution or other facility pursuant to section 6352 (relating to disposition of delinquent child) and who remains in any such institution or facility as a result of that adjudication of delinquency upon attaining 20 years of age; and
3. who is currently in need of involuntary treatment due to a mental abnormality or personality disorder which results in serious difficulty in controlling sexually violent behavior that makes the person likely to engage in an act of sexual violence.

A juvenile who meets the first two criteria is subject to an assessment by the State Sexual Offenders Assessment Board (SOAB).³⁹ For purposes of the assessment, the SOAB is entitled to inspect the juvenile court files and records pertaining to the juvenile,⁴⁰ and to have the assistance of the juvenile probation officer in obtaining access to the juvenile.⁴¹ However, if copies of files are provided to the Board, the substance of any confidential communication from the juvenile to a psychiatrist or licensed psychologist made in the course of treatment should first be redacted.⁴²

90 days prior to the 20th birthday of the child, the juvenile probation department must notify the board of the status of the delinquent child and the institution or other facility where the child is presently committed. The probation department must assist the board in obtaining access to the child and any information required by the board to perform the assessment, including, but not limited to, the child’s official court record and complete juvenile probation file.⁴³

The SOAB will conduct an assessment, which must include the SOAB's determination of whether or not the child is in need of commitment for involuntary treatment due to a mental abnormality or personality disorder that results in serious difficulty in controlling sexually violent behavior. Upon the completion of the assessment pursuant to this section, and **no later than 90 days after the child's 20th birthday**, the SOAB must file the assessment with the court.

Duties of the Court upon Receipt of the SOAB Assessment

The court must provide a copy of the SOAB assessment to the probation department, the district attorney, county solicitor or designee and the child's attorney.⁴⁴

Where the SOAB has concluded that the child is in need of involuntary treatment pursuant to the provisions of 42 Pa. C.S. Chapter 64, the court must conduct a dispositional review hearing at which the county solicitor or a designee, the probation officer and the child's attorney are present. The hearing must be held **no later than 180 days before the 21st birthday** of the child. At the hearing, the court must consider the assessment, treatment information and any other relevant information. If, at the conclusion of the dispositional review hearing, the court finds there is a prima facie case that the child is in need of involuntary treatment under the provisions of 42 Pa. C.S. Chapter 64, the court must direct the county solicitor or a designee to file a petition to initiate proceedings under the provisions of that chapter.⁴⁵

Duties of the Court in Proceedings Under 42 Pa.C.S. Chapter 64

Wherever the juvenile may be in custody, the court having jurisdiction for purpose of proceedings under Chapter 64 is the county Court of Common Pleas that entered the original delinquency commitment order.⁴⁶

The petition commencing these proceedings must set forth facts constituting reasonable grounds to believe the juvenile comes within the involuntary commitment law's criteria, must include the SOAB's assessment, and must be served on the juvenile, the juvenile's attorney in the disposition review hearing, and the county solicitor or designee, along with notice of the hearing on the petition. The juvenile and the juvenile's attorney at disposition review must receive written notice of the right to counsel (including appointed counsel if necessary). The juvenile must also be informed that he has a right to be assisted by an independent expert on sexually violent behavior, and that a reasonable fee will be allowed for this purpose if the juvenile cannot afford to engage one. (Best practice is to appoint an independent expert at the cost of the court.)

A public hearing on the petition must be held within **30 days** of the filing of the petition. At the hearing, the juvenile has the right to confront and cross-examine witnesses and to present evidence, but may not be called as a witness without his consent.

Following the hearing, if the court finds by clear and convincing evidence that the juvenile has “a mental abnormality or personality disorder which results in serious difficulty in controlling sexually violent behavior” that makes him “likely to engage in an act of sexual violence,” it must enter an order directing immediate commitment for inpatient treatment in a facility designated by the Department of Human Services, the Sexual Responsibility and Treatment Program (SRTP) on the grounds of Torrance State Hospital in Westmoreland County. Commitment in such a case is for a period of one year, after which the law provides for an annual review hearing procedure, based on a facility evaluation and a new assessment by the SOAB.⁴⁷

Sample language for the commitment court order:

Pursuant to 42 Pa. C.S.A. § 6404, this court finds, by clear and convincing evidence, that _____ has a Mental Abnormality or Personality Disorder which results in serious difficulty in controlling Sexually Violent behavior that makes _____ likely to engage in an act of Sexual Violence, and otherwise meets ALL criteria necessary for continued treatment pursuant to 42 Pa. C.S.A. § 6404.

Accordingly, pursuant to 42 Pa. C.S.A. § 6404, _____ is hereby committed (or recommitted) immediately for a period of one (1) year to the Pennsylvania Sexual Responsibility and Treatment Program, at Torrance State Hospital a facility designated by the Commonwealth Department of Human Services.

An appeal shall not stay the execution of this order.

The exhibits that were entered into evidence in the hearing on the above petition, held on _____ (date) shall be and are SEALED and filed with _____ (enter appropriate county office).

Copies of any reports submitted by the State Sexual Offenders Assessment Board or by Pennsylvania Sexual Responsibility and Treatment Program at Torrance State Hospital shall be sent to the solicitor and defense counsel.

Commitment and Annual Review

The initial commitment of the “Sexually Violent Delinquent Child” (hereinafter “person”) is for a period of one year.⁴⁸ At least **60 days prior to the expiration of the one-year inpatient commitment period**, the director of the SRTP or a designee must submit an evaluation and the SOAB must submit an assessment of the person to the court.⁴⁹

The court must schedule a review hearing, which must be held **no later than 30 days after receipt of both the SRTP evaluation and the SOAB assessment**. Notice of the review hearing must be provided to the person, the attorney who represented the person at the previous hearing, the district attorney and the county solicitor or a designee. The person and his attorney must also be provided with written notice advising that the person has the right to counsel and that, if he cannot afford one, counsel must be appointed for the person.

If the court determines by clear and convincing evidence that the person continues to have serious difficulty controlling sexually violent behavior while committed for inpatient treatment due to a mental abnormality or personality disorder that makes the person likely to engage in an act of sexual violence, the court must order an additional period of involuntary inpatient treatment of one year. (See suggested language, above.)

Otherwise, the court must order the Department of Human Services, in consultation with the SOAB, to develop an outpatient treatment plan for the person. The order must be in writing and must be consistent with the protection of the public safety and appropriate control, care and treatment of the person.⁵⁰

Transfer to Involuntary Outpatient Treatment

Whenever it appears that the juvenile no longer has serious difficulty controlling sexually violent behavior, the director of the SRTP or a designee may petition for discharge, with notice to the person, the person’s attorney, the SOAB, the district attorney and the county solicitor. The SOAB must conduct a new assessment in such a case, and a hearing must be held **within 15 days of the court’s receipt of the new assessment**.⁵¹

An outpatient treatment plan must be in writing and must identify the specific entity that will provide each clinical and support service identified in the plan. The Department of Human Services must provide a copy of the outpatient treatment plan to the court, the person, the attorney who represented the person at the most recent hearing, the SOAB, the district attorney and the county solicitor or a designee.

The court is prohibited from discharging the person from involuntary treatment until the person has completed involuntary outpatient treatment pursuant to section 42 Pa.C.S. § 6404.2 (relating to duration of outpatient commitment and review).⁵²

The Department of Human Services is required to provide the juvenile with notice of the person's right to petition the court for transfer to involuntary outpatient treatment over the objection of the department. The court, after review of the petition, may schedule a hearing pursuant to 42Pa.C.S. § 6403(c).

Following a hearing on a discharge petition, if the court finds by clear and convincing evidence that the juvenile continues to have serious difficulty controlling sexually violent behavior due to a mental abnormality or personality disorder, it must deny the petition, and the person “shall be subject to the remainder of the period of commitment.”

Otherwise, the court must order the Department of Human Services, in consultation with the SOAB, to develop an outpatient treatment plan for the person.

If a court has ordered the transfer of the person to involuntary outpatient treatment the court may specify the terms and conditions of the outpatient commitment, including, but not limited to:

- Absolute compliance with the outpatient treatment plan.
- Restrictions and requirements regarding the location of the person's residence and the times the person must be physically present.
- Restrictions and requirements regarding areas the person is not permitted to visit.
- Restrictions and requirements regarding who the person may contact in any medium.
- Periodic polygraph tests.⁵³

The court must order involuntary outpatient treatment for a period of **1 year**, and the involuntary outpatient treatment provider is required to submit a report on the person's status and clinical progress not less than **every 30 days**.⁵⁴

At least 60 days prior to the expiration of the one-year outpatient commitment period, the director of the SRTP or a designee must submit an evaluation, and the SOAB must submit an assessment of the person to the court. The court must then **schedule a review hearing no later than 30 days after receipt of both the SRTP evaluation and the SOAB assessment**. Notice of the review hearing must be provided to the person, the attorney for the person, the district attorney and the county solicitor or a designee. The

person and his attorney must also be provided with written notice advising the person has the right to counsel and that, if the person cannot afford one, counsel shall be appointed for the person.⁵⁵

If the court determines by clear and convincing evidence that the person has serious difficulty controlling sexually violent behavior due to a mental abnormality or personality disorder that makes the person likely to engage in an act of sexual violence, the court must order an additional period of involuntary inpatient treatment of one year. Otherwise, the court must order the discharge of the person and inform the person on the record and in open court of the person's obligation to attend lifetime counseling and of the penalty for failing to attend counseling under 18 Pa.C.S. § 4915.1. The order shall be in writing and shall be consistent with the protection of the public safety and appropriate control, care and treatment of the person.⁵⁶

A "Sexually Violent Delinquent Child" who is discharged from placement is mandated by statute to attend at least monthly counseling sessions for the rest of his life in a program approved by the SOAB, and is financially responsible for all fees assessed from the counseling sessions unless the person can prove to the satisfaction of the court that he cannot afford to pay for the counseling sessions. Upon such a determination by the court, the SOAB is required to pay the requisite fees. The SOAB is responsible for monitoring the person's compliance with the lifetime counseling mandate.⁵⁷

§ 10-9 Cessation of Court Supervision

Court supervision may end by loss of court jurisdiction,⁵⁸ by termination of court supervision,⁵⁹ or by early termination by motion.⁶⁰

Loss of Jurisdiction

Once a juvenile reaches the age of twenty-one the jurisdiction of the juvenile court ends regardless of whether the juvenile has completed the conditions of supervision, and the court is required to enter an order terminating supervision of the juvenile.⁶¹ However, the court must retain jurisdiction until age 21 over a youth who has failed to pay restitution in full. If restitution remains unpaid when the court's jurisdiction over a juvenile terminates at age 21, a judgement must be filed.⁶²

The court should review the issue of restitution at each dispositional review hearing to ensure that progress is being made towards the payment of restitution and court fees. It is

not in a juvenile's best interest for the case to remain open until the age of 21 when the juvenile has otherwise satisfied all other obligations of the dispositional order. The collateral consequences of having a judgment entered can have a negative impact on a juvenile's successful transition to adulthood.

Termination of Court Supervision

The juvenile probation department must promptly notify the court when the conditions of probation have been satisfied.⁶³ The court must then decide if supervision should be terminated. The notice from the probation department must state that:

- the juvenile has completed the terms of the court's dispositional order;
- restitution, fines, and costs have been paid in full; and
- the juvenile has not committed any new offenses for which a new delinquency or criminal proceeding may be commenced.

Any party may object to the notice and request a hearing. The objection must be made within **30 days** of receipt of the notice; otherwise, objections are deemed waived. If objections are made, the court must hold a hearing and give each party an opportunity to be heard before the court enters its final order. The attorney for the Commonwealth or designee is to notify the victim of 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.⁶⁴

After the hearing, if 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.

Some juveniles make extraordinary progress in completing the terms of the dispositional order. Such accomplishments should be acknowledged in a public way. This can be done in several ways:

- Hold a case-closing hearing where the court can congratulate the juvenile on earning case closure.
- Send a "case closure" letter to the juvenile, congratulating him or her on completing the terms of the dispositional order.
- During juvenile justice week or at another designated time, honor those juveniles who have made extraordinary progress.

Early Termination of Court Supervision by Motion

Any party may move for early termination of court supervision.⁶⁵ The motion must state with specificity why early termination is sought and why the requirements of Rule 631(A) have not been met. In addition to the service requirements of Rule 345, any party moving for early termination must serve the motion on the juvenile probation officer, and the victim must be provided with notice of the motion as well.

A party or the juvenile probation officer may object to the motion and request a hearing. Objections must be made within **30 days** of the date of the motion, or they are deemed waived.

The court may rule on the motion and any objections without a hearing. However, if objections have been made and/or the court has determined a hearing is necessary, the court must 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. Although the Rules do not address it, the attorney for the Commonwealth or designee should be responsible for notifying the victim of 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.⁶⁶

If 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.

In general, in order hold juvenile offenders accountable, it is important for they be required to complete the terms of the dispositional order before case closure. Therefore, early termination should only be granted for a compelling reason. In deciding whether to grant early case closure, the court should consider:

- what terms of the dispositional order have not been completed and the reasons that the terms have not been completed;
- whether keeping the case open will result in completion of the dispositional order;
- whether the juvenile presents a risk to the safety of the community;

- whether the interest of the public served by early termination;
- whether the juvenile has developed the competencies necessary to successfully transition to adulthood; and
- whether there is an objection by the probation department, the attorney for the Commonwealth, or the victim.

¹ Best practice guidelines in dependency cases encourage holding permanency hearings every three months. (Pennsylvania Children’s Roundtable Initiative. Pennsylvania Dependency Benchbook, 12.2)

² <http://www.pacode.com/secure/data/055/chapter3800/chap3800toc.html>

³ Rule 600, Pa.R.J.C.P.

⁴ Comment, Rule 600, Pa.R.J.C.P.

⁵ Rules 605,240, 241 and 242, Pa.R.J.C.P.

⁶ Rule 610(B), Pa.R.J.C.P.

⁷ Rules 605(B) and 612(B), Pa.R.J.C.P.

⁸ Rule 610, Pa.R.J.C.P.

⁹ Rule 147, Pa.R.J.C.P.

¹⁰ Rule 610, Pa.R.J.C.P.

¹¹ Rules 610 and 512, Pa.R.J.C.P.

¹² Rule 610 Comment, Pa.R.J.C.P.

¹³ Rules 622, 625 and 628 Pa.R.J.C.P.

¹⁴ *Pennsylvania’s Juvenile Justice System Enhancement Strategy-Achieving Our Balanced and Restorative Justice Mission Through Evidence-based Policy and Practice* (Juvenile Court Judges’ Commission and Pennsylvania Council of Chief Juvenile Probation Officers, April 2012) p.29

¹⁵ Rule 345, Pa.R.J.C.P.

¹⁶ Rule 612, Pa.R.J.C.P.

¹⁷ Rule 612(C), Pa.R.J.C.P.

¹⁸ Rule 612(E) and Comment, Pa.R.J.C.P.

¹⁹ Rule 610, Pa.R.J.C.P.

²⁰ *Pennsylvania’s Juvenile Justice System Enhancement Strategy-Achieving Our Balanced and Restorative Justice Mission Through Evidence-based Policy and Practice* (Juvenile Court Judges’ Commission and Pennsylvania Council of Chief Juvenile Probation Officers, April 2012) p.21.

²¹ Rule 610(A), Pa.R.J.C.P.

²² 42 Pa.C.S. §6353(a).

²³ Rule 610(B), Pa.R.J.C.P.

²⁴ 42 Pa.C.S. §6353(b) and Rule 610(D), Pa.R.J.C.P.

²⁵ Rule 147, Pa.R.J.C.P. An educational decisionmaker should be appointed only if the juvenile has no guardian or, after giving the guardian notice and an opportunity to be heard, the court had determined that it is in the juvenile’s best interest to limit the guardian’s right to make decisions regarding the juvenile’s education.

²⁶ Rule 1608, Pa.R.J.C.P.

²⁷ 18P.S. § 11.201(5.2)

²⁸ 18P.S. § 11.201(8.1)(iii)

²⁹ Rule 610(B) and Comment, Pa.R.J.C.P.

³⁰ <http://www.pacode.com/secure/data/055/chapter3800/s3800.224.html>

³¹ *Pennsylvania's Juvenile Justice System Enhancement Strategy-Achieving Our Balanced and Restorative Justice Mission Through Evidence-based Policy and Practice* (Juvenile Court Judges' Commission and Pennsylvania Council of Chief Juvenile Probation Officers, April 2012) pp.23-27.

³² <http://www.jcjc.pa.gov/Publications/Documents/Standards%20Governing%20Aftercare%20Services.pdf>

³³ *Ibid.*, p.28

³⁴ <http://www.jcjc.pa.gov/Publications/Documents/Standards%20Governing%20Home%20Passes%20to%20Delinquent%20Children%20in%20Placement.pdf>

³⁵ 18P.S. § 11.201(8.1)(i)

³⁶ Rule 1320, Pa.R.J.C.P.

³⁷ Rule 1321, Pa.R.J.C.P.

³⁸ 42 Pa. C.S. §§6358, 6401-6409.

³⁹ 42 Pa. C.S. §§6358(a).

⁴⁰ 42 Pa.C.S. § 6307.

⁴¹ 42 Pa.C.S. § 6358(b).

⁴² *See* 42 Pa.C.S. § 5944 and *Commonwealth v. Carter*, 821 A.2d601 (Pa. Super. 2003).

⁴³ 42 Pa.C.S. § 6358(b).

⁴⁴ 42 Pa.C.S. § 6358(d).

⁴⁵ 42 Pa.C.S. § 6358(f).

⁴⁶ 42 Pa.C.S. § 6403(b).

⁴⁷ 42 Pa.C.S. §§ 6403(d) and 6404(a).

⁴⁸ 42 Pa.C.S. § 6404 (a).

⁴⁹ 42 Pa.C.S. § 6404 (b)(1).

⁵⁰ 42 Pa.C.S. § 6404 (b)(2).

⁵¹ 42 Pa.C.S. § 6404 (c).

⁵² 42 Pa.C.S. § 6404 (d).

⁵³ 42 Pa. C.S. § 6404.2 (a).

⁵⁴ 42 Pa. C.S. §6404.2(b) and(c).

⁵⁵ 42 Pa. C.S. §6404.2(f).

⁵⁶ *Ibid.*

⁵⁷ 42 Pa. C.S. § 6404.2 (g).

⁵⁸ Rule 630, Pa.R.J.C.P.

⁵⁹ Rule 631, Pa.R.J.C.P.

⁶⁰ Rule 632, Pa.R.J.C.P.

⁶¹ Rule 630, Pa.R.J.C.P.

⁶² 42 Pa.C.S. §§ 6352(a)(5) and 9728.

⁶³ Rule 631, Pa.R.J.C.P.

⁶⁴ Rule 631 Comment, and Rule 132 Pa.R.J.C.P.

⁶⁵ Rule 632, Pa.R.J.C.P.

⁶⁶ Rule 132 and Comment to Rule 632, Pa.R.J.C.P.