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# PENNSYLVANIA JUVENILE JUSTICE

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## The “Festival of Trees” in Beaver County

by: **Debra J. Fencil**  
Beaver County's  
Community Resource  
Manager

The “Festival of Trees” has become a tradition in Beaver County. During an event which brings joy and laughter to all who participate, the lodge at Brady’s Run Park has been transformed, for the past 11 years, into a winter wonderland filled with lavishly decorated trees. The sounds of the season are heard throughout the lodge—with music performed by local church groups, schools, and individuals.

Santa and his helpers are there, too. The Advisory Board of Beaver County Children and Youth Services sponsors this yearly event to raise funds for the purchase of necessities for C&Y families. The Festival of Trees was open to the public from November 23, 2000 (Thanksgiving Night) until the Great Christmas Tree Auction on December 5, 2000, at which time the trees were auctioned off and the proceeds donated. During the seven days of the festival last year, 12,500 visitors enjoyed this spectacular celebration.

This year the Beaver County Juvenile Services Division sponsored a tree of it’s own. The probation officers raised the money to purchase the tree, lights, and all the trimmings. They decided on a theme, “The Peace Tree,” and selected purple and white for the colors. The tree was adorned with twelve white-feathered doves, as well as many other

*continued on page 4*

# Act 86 Creates “Bill of Rights” For Victims of Juvenile Crime

Governor Tom Ridge signed SB 1224 (2222) into law as Act 86 of 2000 on October 30, 2000, creating a “Bill of Rights” for victims of juvenile crime. Act 86 becomes effective on December 29, 2000, and provides victims of crimes committed by juveniles with the following rights:

1. To be notified of certain significant actions and proceedings within the juvenile justice system pertaining to their case, including:
  - a. access to information regarding whether the juvenile was detained or released following arrest, and whether a petition alleging delinquency has been filed; and
  - b. immediate notification of a juvenile’s pre-adjudication escape from a detention center or shelter facility and of the juvenile’s subsequent apprehension;
2. 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;
3. In cases involving a “personal injury crime” or burglary, to submit prior comment to the prosecutor’s office or juvenile probation office, as appropriate to the circumstances of the case, on the potential reduction or dropping of any charge or changing of a plea in a delinquency proceeding, or, diversion of any case, including an informal adjustment or consent decree;
4. To have the opportunity to offer prior comment on 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;

5. Upon request of the victim of a personal injury crime, to have the opportunity to submit written comment or 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 expeditious 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. If, upon the request of the victim of a person injury crime committed by a juvenile, the juvenile is ordered to residential placement, a shelter facility, or detention center, to:

- a. receive prior notice of the date of the release of the juvenile, including temporary leave or home pass;

- b. be provided with immediate notice of an escape of the juvenile, including failure to return from temporary leave or home pass; and immediate notice of re-apprehension of the juvenile; and

- c. be provided with notice of the 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;

8. To have assistance in the preparation of, submission of and follow-up on financial assistance claims to the Crime Victims Compensation Program;

9. To be notified of the details of the final disposition of the case, consistent with 42 Pa. C.S. §6336(f) (relating to conduct of hearings); and upon the request of the victim of a personal injury crime, to be notified of the termination of the courts’ jurisdiction.

Note: Act 86 defines “personal injury crimes” as follows:

*Personal injury crimes* are defined as an act, attempt or threat to commit an act which would constitute a misdemeanor or felony under the following: 18 Pa. C.S.

This publication is produced monthly at the Center for Juvenile Justice Training and Research at Shippensburg University.

Guest articles are always welcome; please submit them by email or on a disk. We particularly enjoy your photographs, but we ask that these be mailed - we will be happy to return them to you.

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Please send additions or changes to the mailing list to Nina Weaver at the same address or email [nsweav@wharf.ship.edu](mailto:nsweav@wharf.ship.edu)

Ch. 25 (relating to criminal homicide); 18 Pa. C.S. Ch. 27 (relating to assault); 18 Pa. C.S. Ch. 29 (relating to kidnapping); 18 Pa. C.S. Ch. 31 (relating to sexual offenses); 18 Pa. C.S. §3301 (relating to arson and related offenses); 18 Pa. C.S. Ch. 37 (relating to robbery); 18 Pa. C.S. Ch. 49, Subchapter B (relating to victim and witness intimidation); 30 Pa. C.S. §5502.1 (relating to homicide by watercraft while operating under influence); 75 Pa. C.S. §3731 (relating to driving under influence of alcohol or controlled substance) in cases involving bodily injury; 75 Pa. C.S. §3732 (relating to homicide by vehicle); 75 Pa. C.S. §3735 (relating to homicide by vehicle while driving under influence); 75 Pa. C.S. §3735.1 (relating to aggravated assault by vehicle while driving under the influence); and 75 Pa. C.S. §3742 (relating to accidents involving death or personal injury).

Also included in Act 86 of 2000, is a provision that requires all juvenile offenders adjudicated delinquent, or receiving consent decree dispositions, to pay costs of at least \$15 that will be paid into the Crime Victim's Compensation Fund.

Act 86 of 2000 places responsibilities, respectively, on juvenile probation offices, state and local law enforcement agencies, and prosecutors' offices to provide victims of juvenile crime with the following:

#### Responsibilities of Juvenile Probation Offices

1. Notice of delinquency adjudication hearings, unless such hearings have been scheduled by the prosecutor's office;
2. Notice of disposition hearings;
3. Notice of a juvenile's pre-adjudication escape from a detention center or shelter facility and of the juvenile's subsequent apprehension;
4. Upon request, notice of whether the juvenile probation office has detained or released the juvenile following arrest and whether a delinquency petition has been filed;
5. Notice of the details of the final disposition of the case consistent with 42 Pa. C.S. §6336(f) (relating to conduct of hearings) unless provided by the prosecutor's office;
6. The opportunity to provide a written victim-impact statement, to be considered in the disposition of any case and included as part of any predisposition report submitted to the court;
7. Notice of the opportunity to provide an oral victim-impact statement at the time of disposition in cases of juveniles who have been adjudicated delinquent;
8. In cases involving a "personal injury crime" or

burglary:

a. notice and the opportunity to provide prior comment on the potential reduction or dropping of a charge or diversion of any case, including informal adjustment and consent decree unless such notice and opportunity is provided by the prosecutor's office; and

b. notification of a review of disposition hearing.

9. Upon request of the victim of a "personal injury crime":

a. prior notice when an adjudicated delinquent ordered into residential placement or official detention will be granted temporary leave or home pass or release;

b. notice of a proposed release or transfer of an adjudicated delinquent from placement that is contrary to a previous court order or placement plan approved at a disposition review hearing and the opportunity to provide a written objection prior to the release or transfer of the juvenile from placement;

c. immediate notice of a juvenile's escape from official detention or failure to return from temporary leave or home pass and of the juvenile's subsequent apprehension;

d. notice of the termination of juvenile court jurisdiction; and

e. the opportunity to submit written comment and of their right to provide oral testimony at a disposition review hearing.

#### Responsibilities of Prosecutors' Offices

1. In "personal injury crimes," notice prior to the entry of a consent decree;
2. Prior notice of delinquency adjudication hearings unless such hearings are scheduled by the juvenile probation office;
3. Notice of hearings related to the transfer of a juvenile to and from criminal proceedings;
4. Upon request in a "personal injury crime", notice of the filing, hearing or disposition of appeals;
5. Notice of the details of the final disposition of their case, consistent with 42 Pa. C.S. §6336(f) (relating to conduct of hearings), unless provided by the juvenile probation office;
6. Forms and assistance in the preparation of comments on the disposition of a delinquent child, including 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;
7. Upon request in a "personal injury crime", assistance in the preparation of written comment

or oral testimony at a disposition review hearing;  
8. Assistance in the preparation of, submission of, and follow-up on financial assistance claims filed with the Crime Victims Compensation Fund; and  
9. Return to the victim of any property seized as evidence, if the prosecutor's office determines that the evidence is no longer needed for prosecution.

#### Responsibilities of State and Local Law Enforcement Agencies:

1. Basic information on services available to crime victims;
2. In "personal injury crimes", the law enforcement agency shall make reasonable efforts to notify the victim of the arrest of the suspect, and of the filing or forwarding of a complaint relating to the crime, as soon as possible. In cases alleging delinquency, notice of the filing or forwarding of a complaint shall be provided not more than 24 hours after the complaint has been filed or forwarded to the juvenile probation office or district attorney;
3. In "personal injury crimes", a law enforcement agency, sheriff, deputy sheriff or constable shall notify the victim of a juvenile's escape from the custody of the law enforcement agency, sheriff, deputy sheriff or constable; and
4. The appropriate law enforcement agency shall return property seized as evidence to the victim, if the prosecutor's office determines that the evidence is no longer needed for prosecution.

Please contact Keith Snyder at 717-787-5634 if you have any questions or need more information.

# FYI...

## effective immediately

The Cambria County Juvenile Court Administrative Office has moved. The new address is:

118 Ebony Road, Suite 200  
Beth Energy Building  
P. O. Box 300  
Ebensburg, PA 15931

Telephone: 814-472-4700  
Fax: 814-472-8026

## Position Available

### JCJC Seeking Juvenile Court Consultants

Two Juvenile Court Consultant vacancies currently exist within the Juvenile Court Judges' Commission. One juvenile court consultant position will serve as the primary point of contact for juvenile courts and juvenile probation departments regarding the agency's specialized probation services programs. The position will conduct on-site monitoring and evaluation of, and provide technical assistance to, approximately 20 jurisdictions receiving specialized probation services funding to ensure compliance with relevant standards. This position will prepare and submit written audit reports regarding these specialized probation programs, including recommendations and/or corrective action plans. This position will be located at the agency's Harrisburg administrative office.

The second juvenile court consultant position will serve as the assistant training director at the agency's Center for Juvenile Justice Training and Research, located at Shippensburg University. This position will assist in the planning, scheduling, and presentation of professional development training programs for county juvenile probation officers and related court staff. The position will conduct periodic needs- assessments to determine the training needs of juvenile probation staff and identify potential trainers. The position will assist with the contracting of trainers and training sites, preparation of training announcements and schedules, and the development and monitoring of county training allocations. The position will also provide technical assistance and consultant services to county juvenile courts and juvenile probation departments.

Individuals interested in applying for either of these positions should contact Keith Snyder, 717- 787-5634, or e-mail [KSnyder@state.pa.us](mailto:KSnyder@state.pa.us).

### *continued from page 1*

embellishments. The most exciting aspect of the event was the coming together of the court with the clients. Juvenile Court Judge John D. McBride, Juvenile Master Jack Walker, Community Resource Manager Debra J. Fencil, four juvenile clients, and a parent decorated the tree as a community service project. Decorating night proved to be a very meaningful community service experience. The court, staff, clients, and family members thoroughly enjoyed working together to create a beautiful Christmas Tree. We plan to make the project an annual event!



## Micco Named Chief in Lawrence County

**O**n November 27, 2000, Patrick J. Micco was named Chief Juvenile Probation Officer in Lawrence County. Micco has been acting chief since August; he succeeds Robert Stillwagon who retired after 34 years in probation.

Born and raised in New Castle, Micco is an Army veteran, who served on active duty from 1983-1985 and was honorably discharged in 1989. He holds a bachelors degree in psychology from the University of Pittsburgh, which he earned in 1990.

From 1991 to 1997 Micco worked as a program manager and supervisor for Specialized Treatment Services, and in June of 1997 he joined the probation staff in Lawrence County.

Micco and his wife, Lisa, live in Neshannock Township, Lawrence County. They have a son, Dylan, who is eight years old.

## School Law Q & A

### #5: Special education – Who “signs off,” and what about the case of the absent parent?

This is our third column on special education law. This time, we had some help – a reader asked us to address the role of the probation officer in situations where the parent seems not to be participating in the special education process. We welcome your requests for other topics we should discuss.

#### **Q: Who has the right to make special education decisions for a student – *i.e.*, to approve or disapprove the student’s IEP or placement, or request a special education “due process hearing”?**

A: Normally, only the student’s parents have the right to make these key decisions. In Pennsylvania, this is true even if the student is over 18.

There are, however, a few situations in which someone other than the parent may qualify to perform this parental role.

First, in those rare cases in which a court has appointed a legal guardian for the child (for example, where a child’s birth parents are deceased), the guardian functions as parent. (Juvenile courts, incidentally, don’t have authority to appoint legal guardians; that’s done elsewhere in the court system.)

Second, where there is an individual “acting in the place of a parent, such as a grandparent or step-parent with whom the child lives,” that person may make special education decisions as if he or she were the actual parent. Under certain circumstances, a long-term foster parent can qualify. Employees of public and private agencies do *not* qualify.

Where there is no parent, and no one qualified to play the parental role as described above, the *school district* must appoint (or arrange through the intermediate unit for the appointment of) a “surrogate parent.” This person must have no interests that conflict with those of the child, and must have adequate knowledge and skills to represent the child. The surrogate parent *cannot* be an employee of any public agency that is involved in the education or care of the child.

Obviously, then, a probation officer *never* qualifies as parent or surrogate parent, and thus never has the authority to make special education decisions for a student.

**Q: But what if the juvenile court has transferred the child's education rights to a case-worker, PO, or other individual?**

A: Under Pennsylvania law, juvenile courts don't have authority to "transfer" the child's educational rights, even following adjudications of delinquency or dependency. Rather, the parents retain their right to make educational decisions – except in the unusual circumstances noted above, in which case the legal guardian, a person acting as parent, or a surrogate parent assumes the parental role.

If the juvenile court has, nevertheless, entered such an order, the matter should be taken up with the judge and/or the county solicitor. The Education Law Center may also be able to help.

**Q: Since PO's don't qualify as parents, should they refrain from signing the child's IEP (individualized education program)?**

A: Actually, no – but first a word on what it means to "sign an IEP." Signing the IEP form means only that the signer *participated in the IEP conference*. It doesn't mean that the signer approves or disapproves of the content of the IEP.

Thus, the probation officer can and should sign the IEP form if s/he participated in the conference. But the PO should do so in his or her role as PO – not as "parent."

**Q: If the parent (or guardian, person acting as parent, or surrogate parent) isn't present at the IEP conference, who should sign the IEP form as parent?**

A: No one. But in this situation, those present should make sure that proper efforts were made to get the parent to attend, and/or to appoint a surrogate parent if one is required (see next question).

**Q: What efforts must the school have made to get the parent to the IEP conference?**

A: The school must make documented efforts to work out, with the parents, a mutually agreeable time and place for the meeting. If the parents can't be physically present, the school must have offered to allow them to participate by phone. Only if these (and certain other) steps have been taken, and the school has been "unable to convince the parents that they should attend," can the IEP conference be

held in the parents' absence.

Obviously, moreover, if the child qualifies (see above) for a surrogate parent, but the district hasn't appointed one, that step must be taken before the IEP conference is held. In that situation, the parent isn't absent – rather, the district hasn't done what's required to put a surrogate in place.

**Q: What's the process for approving or disapproving an IEP?**

A: As we've noted, signing the IEP form itself doesn't have anything to do with approving or disapproving it. The form that *does* serve that purpose is the Notice of Recommended Assignment (NORA). The NORA asks for the parents' consent to the IEP and placement that the school proposes for the child.

By signing the "I approve" line on the NORA, the parent allows the IEP to be implemented. By signing the "I disapprove" line, the parent expresses disagreement. The form also permits the parent to request help from the state-operated mediation program, or a formal "due process hearing." There are time limits, spelled out on the NORA, within which the parent must respond – usually ten days if the form is received by mail, five if in person. And not responding at all has consequences (see below).

**Q: Can a probation officer sign the NORA?**

A: No. Only the parent, or in exceptional cases the guardian, person acting as parent, or surrogate parent, can do so.

**Q: If the parents didn't attend the IEP meeting, how do they sign the NORA?**

A: The school district is required to mail it to them, along with a copy of the proposed IEP.

**Q: What if the parent fails to return the NORA?**

A: After a certain period of time, the school district can treat the failure to respond as an *approval*. (This rule doesn't apply if the NORA is for an "initial placement" in special education – *i.e.*, a situation where the child's status is to be changed from that of a child without a disability to that of a child with a disability.)

Again, though, this assumes that the district has actually got the NORA to the person who qualifies as parent – either the birth/adoptive parent, the legal guardian, the person acting as parent, or the surrogate parent.

**Q: If no parent (or guardian, or person acting as a parent) seems to be in the picture, and I think the child needs a surrogate parent, what should I do?**

A: Discuss the situation with the district. For guidance in a particular situation, call the Education Law Center.

Remember, though, that the fact that a parent is not actively participating does not necessarily mean that a surrogate parent should be appointed. A surrogate parent is usually required only when there *is* no parent, or legal guardian or other person acting as parent. (However, some districts have been willing, *with the parent's consent*, to appoint a surrogate parent to perform educational functions; contact the Education Law Center for more information about this possibility.)

**Q: How can I help a parent who has some interest in the student's education, but who is unwilling or unable to take an active role?**

A: You can help the parent make his or her preferences known, by phone or letter. If necessary, you can write the letter for the parent, so long as s/he goes over and agrees with its content and signs it. You can make sure that the district offers to allow the parent to participate in conferences by phone. And you can make sure that, when a document (such as a NORA) is sent to the parent, s/he understands what it is and deals with it promptly.

*For more information, or for help with specific cases, call – or have the family call – the Education Law Center, 215-238-6970 (Philadelphia) or 412-391-5225 (Pittsburgh). Many ELC publications are available on our website, [www.elc-pa.org](http://www.elc-pa.org).*

In coming issues: School discipline and special education; then back to some regular education topics (such as alternative schools), and/or your requests.

## Staff Development News

The CJJT&R Spring 2001 Staff Development Schedule should be received no later than December 29. Registrations should be returned by January 26. As usual, the Center will continue to accept registrations on a **space-available basis** until the day prior to each program. Registrations are accepted on a first-come, first-served basis, and many programs are expected to reach capacity on or before the January 26 due date or shortly thereafter. The early return of registration materials is strongly encouraged as each season programs seem to fill as soon as a week before the registration deadline. Payment of registration fees may follow later.

A total of 22 programs are scheduled for the coming spring season. The Juvenile Justice Academy for New Juvenile Officers will be held on February 6-9, and continued on March 7-9 at the Holiday Inn Harrisburg West in Mechanicsburg.

Several new topics, never before offered by the Center, are included in this season's staff development schedule. Among them, on February 22-23, the Center will sponsor "Who's in Charge." This program will be held in the Holiday Inn Harrisburg West in Mechanicsburg and will be presented by Phil Washington, a veteran trainer who has presented other highly praised programs for our constituency. This program will assist participants in teaching and modeling parenting options that restore parental influence, promote adolescent maturity, and help parents regain control of adolescents who are out of control.

Cameron Ford, Director of Youth Development for Work Opportunities Unlimited, based in New Hampshire, will present "Successful Employment—A Strategy for Restorative Justice" on March 1-2, also in the Harrisburg area. This workshop provides the tools necessary to assess juveniles' skills, abilities, and goals, and to implement job development-techniques to assist youth in securing employment in their communities and be successful.

The program "Enhancing Your Department's Morale" for the system's supervisors and managers will be held in State College on March 21-22. This program will precede the March general membership meeting of the PA Chief's Council, that will be held on Friday, March 23.

Valerie Bender and Susan Blackburn will co-

present "Promising Restorative Practices" on March 29-30, also in the Harrisburg area. This program will seek to move practitioners from theory into the day-to-day practical application of restorative justice strategies and interventions.

On April 4-6 Stan Walters will return to the Days Inn Penn State to present the Level II-Advanced Kinesic Interviewing program for those individuals who have attended his Level I program and wish to take their interview skills further.

During National Secretaries Week, on April 24-25, the Center will sponsor a program for the system's support staff entitled "Dealing with Difficult People" at the Holiday Inn Harrisburg West in Mechanicsburg which will be led by Elizabeth Coyle. Managers are encouraged to urge their support staff to attend.

Several other new offerings are also included in this spring's schedule, as well as repeats of several programs that filled during the last two training seasons where interested participants had to be turned away. Please review the full schedule carefully and register early!

Because of several program's non-traditional schedules, and the continuing use of four separate training sites, in order to avoid confusion, we are urging administrators or agency training coordinators to provide each registrant with a photocopy of the one-page program description, excerpted from the training booklet, for each program they will be attending to serve as a reminder of the program's learning objectives, dates, times, and location.

The Center is also pleased to announce that beginning in 2001 we will experiment with offering a summer training schedule in June through August. Approximately six programs are anticipated to be held during these months. A tentative listing of topics being considered for both the summer and fall training seasons will be printed on the last page of the spring training booklet.

If by January you have not yet received a copy of the Center's training schedule or if you have any further questions regarding these or other staff development opportunities please contact John Herb at 717-477-1185.

## Computer Training Available

The Municipal Police Officers' Education and Training Commission (MPOETC) has released its Computer Learning Center's current schedule for software training. All Commonwealth law enforcement personnel, which includes juvenile probation department staff, may attend. The computer lab training facility offers an on-going series of programs held on the following dates: Introduction to Personal Computers Concepts (updated course) 3/20/01; Introduction to Operating Systems (Windows and Windows NT) held on 1/17/01 and 3/27/01; Introduction to Word Processing-Word 2000 held on 1/17/01 and 1/27/01; Intermediate Word 2000 3/28/01; Advanced Word 2000 2/8/01; Introduction to Database-Microsoft Access 2000 held on 1/16/01; Intermediate Access 2000 2/20/01; Introduction to Spreadsheets-Excel 2000 held on 1/4/01; Intermediate Excel 2/7/01; Excel Applications for Law Enforcement 3/22/01; Introduction to the Internet 1/30/01; Introduction to Presentations-PowerPoint 2000 held on 1/18/01 & 3/29/01; PowerPoint Intermediate 1/31-2/1/01; Advanced PowerPoint 2/21-22/01; Introduction to Outlook 98 3/21/01; Web Page Design for Law Enforcement 1/24/01; Digital Photo and Movie Editing 2/6/01, and several other specialized law enforcement computer-related topics.

The programs are held from 9 a.m. to 3:30 p.m. on Tuesdays, Wednesdays, and Thursdays. The computer lab is located on the grounds of the Municipal Police Officers' Training Academy at 75 East Derry Road in Hershey. Course descriptions are available on the MPOETC's website, [www.mpoetc.org](http://www.mpoetc.org)

Class size is limited. Each student learns through guided, hands-on instruction with a PC. The Computer Learning Center's training is free to all law enforcement personnel and classes fill quickly. Lodging is available at either The Milton Motel, 1733 E. Chocolate Avenue, rates are \$55-\$60, plus tax, telephone 717 533-4533; or the Holiday Inn Harrisburg East, 4751 Lindle Road, (exit #1 off I-283) \$55 plus tax, phone 717- 939-7841.

Questions may be directed to Vance Rosebush, 717-533-5987, ext 206. [vrosebush@mpoetc.org](mailto:vrosebush@mpoetc.org) Dave Davis, 717-533-5987, ext 210, is the manager of the facility. Email him at [ddavis@mpoetc.org](mailto:ddavis@mpoetc.org) Registrations should be faxed to 717-787-1650.